JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Regular Session of 1992

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1992, and
in the Two Hundredth
Year of the Commonwealth

Begun on the Seventh Day of January, 1992, and Adjourned
Sine Die on the Fourteenth Day of April, 1992.

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FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This Journal represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1992.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled in an Appendix.

Mrs. Jean Wallace and Mrs. Wilda Bond prepared House Journal for the Regular Session of 1992. The edited copy and index in this Journal reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
April, 1992

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION 1992

TUESDAY, JANUARY 7, 1992

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 7, 1992, the two hundredth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Donald J. Blandford assumed the Chair and called the House to Order.

Invocation by the Frankfort Community Choir under the direction of Carol Lasley and Stewart Beatty.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Speaker announced that the membership of the House remained the same as in the Second Extraordinary Session of 1991.

The roll was called. All members present.

Representative Stumbo moved the nomination of the following Constitutional officers to serve until December 31, 1992:

Chief Clerk, Evelyn Marston
Assistant Clerk, Julie Wheat
Enrolling Clerk, Margaret Watts
Sergeant at Arms, Emmett A. Slattery
Chief Doorkeeper, William E. Davis
Cloakroom Keeper, Lawrence Parrish
Cloakroom Keeper, Albert Robinson
Janitor, George Fritz
Page, Matt Hoehner
Page, Kris Hockensmith
Page, Steven Rockhold
Page, Margaret Mitchell

Representative Stumbo moved that the nominations cease and that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable Roger Crittenden, Circuit Judge, Franklin County.

Representative Stumbo moved that the rules be suspended to introduce and act upon **HR 3**, **HR 4** and **HR 5**. Agreed.

HR 3, by Representatives Blandford, Worthington, Rapier, Richards and Stumbo: A RESOLUTION adopting rules of the House of Representatives for the 1992 Regular Session of the General Assembly.

Representative Stumbo moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION adopting rules of the House of Representatives for the 1992 Regular Session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and Approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Motions, Petitions and Communications.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the organizational and regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Economic Development
8. Education
9. Elections and Constitutional Amendments
10. Health and Welfare
11. Judiciary
12. Labor and Industry
13. Natural Resources and Environment
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than nineteen members to any one standing committee, except the Committee on Appropriations and Revenue which shall have not more than twenty-three members, and the Committee on Education, the Committee on Economic Development and the Committee on State Government which shall each have not more than twenty-one members. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employees; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk;

county employees' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. Economic Development: matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

8. Education: matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

9. Elections and Constitutional Amendments: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

10. Health and Welfare: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

11. Judiciary: matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional penitentiaries; civil rights; and juvenile matters.

12. Labor and Industry: matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

13. Natural Resources and Environment: matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

14. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant

Governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. Tourism Development and Energy: matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol. Subcommittees of the Committee on Tourism Development and Energy shall include but not be limited to the Subcommittee on Tourism and the Subcommittee on Energy.

16. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee; provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a committee on conference report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a committee on free conference, consisting of three or more members. A committee on free conference shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the Press Club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure, a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52A. Local Mandate Impact Statement. Any bill which relates to any aspect of local government or any service provided thereby shall be analyzed by the Legislative Research Commission for its fiscal impact upon local governments and if determined to contain a local mandate shall have a local mandate impact statement attached prior to final consideration.

No measure which contains a local mandate shall be placed in the Orders of the Day until the local mandate impact statement is attached unless the requirement of the statement has been waived by a vote of two-thirds of all members of the House.

Any member proposing to amend from the floor a bill which contains a local mandate or if the proposed amendment itself contains a local mandate, shall cause a fiscal analysis of the amendment to be made and a local mandate impact statement attached to the proposed amendment. Until such time as the local mandate impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 52B. Corrections Impact Statement. Any bill which relates to any aspect of state or local corrections or any service provided thereby, including any bill which creates or modifies any criminal penalty, shall be analyzed by the staff of the Legislative Research Commission for its fiscal and corrections population impact upon state and local governments and shall have a fiscal and population impact statement attached prior to final consideration. No measure which relates to any aspect of state or local corrections shall be placed in the Orders of the Day until the corrections impact statement is attached. Any member proposing an amendment from the floor which relates to state or local corrections shall cause a corrections impact statement to be prepared and attached to the proposed amendment. Until the time the corrections impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. The requirement for the corrections impact statement may be waived by a vote of two-thirds (2/3) of all members of the House.

Rule 53. Proposed Administrative Regulations. (1) Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

(2) This amendment of the Rules of the House of Representatives shall apply only to bills introduced after February 5, 1980.

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House Clerk shall so notify the Clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the General Assembly shall become effective upon sine die adjournment of the General Assembly unless the General Assembly in regular session shall disapprove the proposed regulation.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 52 relative to fiscal analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a House bill under consideration containing the substantial text of the language of another bill shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of another bill the Speaker shall rule thereon, subject to appeal to the House.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll such bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each are in the exact form as finally passed prior to such delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study. All resolutions recommending or requiring a study, or which recommend or create a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted ***en bloc after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.***

A resolution shall not be accepted for introduction if offered in lieu of a legislative citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol.

Rule 74. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the Clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desks and treated as litter.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 3 was adopted by voice vote.

HR 4, by Representatives Blandford, Stumbo, Worthington, Rapier and Richards: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

Representative Stumbo moved the adoption of the following **HR 4**:

HR 4, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open sessions thereof with prayer.

HR 4 was adopted by voice vote.

HR 5, by Representatives Blandford, Stumbo, Worthington, Rapier and Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Stumbo moved the adoption of the following **HR 5**:

HR 5, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 5 was adopted by voice vote.

Representative Stumbo moved to waive the reading of pre-filed Bills and list them in *The Journal.* Agreed.

Introduction of Bills and Resolutions

HB 1, by Representative Johnson: AN ACT relating to fire departments in cities of the second class or urban-county governments.

HB 2, by Representative B. Smith: AN ACT relating to sales and use taxes.

HB 3, by Representatives Maggard, Richardson, Ballard Bruce Lile, Ark and Hancock: AN ACT relating to a tax refund designation for veterans' programs.

HB 4, by Representatives Arnold, Bruce, Ballard, Hatcher and Turner: AN ACT relating to property tax.

HB 5, by Representatives Farrow and Crupper: AN ACT relating to property taxes.

HB 6, by Representatives Long and Wayne: AN ACT relating to telephone solicitations.

HB 7, by Representatives Donnermeyer and Callahan: AN ACT relating to the bonding capacity of the Kentucky Housing Corporation.

HB 8, by Representative Wayne: AN ACT relating to publication of legal notices.

HB 9, by Representative Mack: AN ACT proposing to amend the Constitution of Kentucky relative to the terms of the Governor and Lieutenant Governor.

HB 10, by Representative Mack: AN ACT proposing to amend the Constitution of Kentucky relative to sessions of the General Assembly.

HB 11, by Representative Arnold: AN ACT changing the classification of the City of Jeffersonville, in Montgomery County.

HB 12, by Representative Jones: AN ACT relating to reorganization.

HB 13, by Representative Jones: AN ACT relating to reorganization.

HB 14, by Representatives Wayne, Morris, Palumbo Riggs and Ward: AN ACT creating the Kentucky Peace Corps.

HB 15, by Representatives Gedling and Stokes: AN ACT relating to peace officers.

HB 16, by Representatives Donnermeyer and Jones: AN ACT relating to open meetings public agencies.

HB 17, by Representatives Nunn, Arnold and Riggs: AN ACT relating to water service.

HB 18, by Representative Mack: AN ACT proposing an amendment to Sections 10 and 31 of the Constitution of Kentucky relating to terms of members of the General Assembly.

HB 19, by Representative Riggs: AN ACT relating to public notice by local governments.

HB 20, by Representative Lear: AN ACT relating to penalties.

HB 21, by Representatives Hatcher and Crupper: AN ACT relating to the filing of sales and use tax returns.

HB 22, by Representatives Farrow, Crupper and Farley: AN ACT relating to sales and use tax.

HB 23, by Representatives B. Smith, Lyne, J. Harper, Napier, Sanders, Turner and Crupper: AN ACT relating to overdimension permits.

HB 24, by Representatives Butler and Callahan: AN ACT relating to water heating devices.

HB 25, by Representatives Callahan and Butler: AN ACT relating to plumbers and plumbing.

HB 26, by Representative Sheehan: AN ACT relating to ground-fault circuit-interrupters.

HB 27, by Representative Callahan: AN ACT relating to local governments.

HB 28, by Representatives Donnermeyer, Wayne, P. Clark and Palumbo: AN ACT relating to the establishment of an affordable housing trust fund and making an appropriation therefor.

HB 29, by Representative Callahan: AN ACT relating to publication of legal notices.

HB 30, by Representative Ballard: AN ACT relating to motor vehicles.

HB 31, by Representative Ballard: AN ACT relating to motor vehicle operators.

HB 32, by Representative K. Harper: AN ACT relating to the acquisition of property.

HB 33, by Representative McElroy: AN ACT relating to motor vehicle licensing.

HB 34, by Representative Ballard: AN ACT relating to limited access highways.

HB 35, by Representative J. Harper: AN ACT relating to hunting and fishing licenses.

HB 36, by Representative Mason: AN ACT relating to oil and gas.

HB 37, by Representative Kerr: AN ACT relating to parole for violent offenders.

HB 38, by Representative Kerr: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 39, by Representative Mullinix: AN ACT relating to courts.

HB 40, by Representative Kerr: AN ACT relating to child support.

HB 41, by Representative Scorsone: AN ACT relating to termination of parental rights.

HB 42, by Representative Ward: AN ACT relating to sports officials.

HB 43, by Representative Scorsone: AN ACT relating to dissolution of marriage and child custody.

HB 44, by Representative L. Clark: AN ACT relating to gambling.

HB 45, by Representative Mack: AN ACT relating to marriage.

HB 46, by Representative Butler: AN ACT relating to crimes and punishments.

HB 47, by Representative Gray: AN ACT relating to primary elections.

HB 48, by Representative Sheehan: AN ACT relating to the organization of the executive branch of state government.

HB 49, by Representative Sheehan: AN ACT relating to campaign finance committee registration.

HB 50, by Representative Sheehan: AN ACT relating to financial disclosure.

HB 51, by Representative Sheehan: AN ACT relating to campaign finance definitions.

HB 52, by Representative Sheehan: AN ACT relating to campaign finance.

HB 53, by Representative Sheehan: AN ACT relating to campaign finance violations.

HB 54, by Representative Sheehan: AN ACT relating to penalties for campaign finance violations.

HB 55, by Representative Sheehan: AN ACT relating to campaign treasurers.

HB 56, by Representative Sheehan: AN ACT relating to elections.

HB 57, by Representative Sheehan: AN ACT relating to the Registry of Election Finance.

HB 58, by Representative Wayne: AN ACT relating to hunting and fishing licenses.

HB 59, by Representative Farrow: AN ACT relating to motor vehicle accidents.

HB 60, by Representative Long: AN ACT relating to underground storage tanks.

HB 61, by Representatives Morris and Bruce: AN ACT relating to crimes and punishments.

HB 62, by Representative Gregory: AN ACT relating to tourist and convention commissions.

HB 63, by Representatives Callahan and K. Harper: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 64, by Representative Palumbo: AN ACT relating to urban county pension systems.

HB 65, by Representative Callahan: AN ACT relating to the Kentucky Retirement System.

HB 66, by Representatives Donnermeyer, Callahan and K. Harper: AN ACT relating to enterprise zones and making an appropriation therefor.

HB 67, by Representative Donnermeyer: AN ACT relating to nudity.

HB 68, by Representative Mack: AN ACT relating to school discipline.

HB 69, by Representative L. Clark: AN ACT relating to challengers in primary and regular elections.

HB 70, by Representative Todd: AN ACT relating to school discipline.

HB 71, by Representative Worthington: AN ACT proposing an amendment to the Constitution of Kentucky relating to officers of state government.

HB 72, by Representative Mack: AN ACT relating to the State Board for Elementary and Secondary Education.

HB 73, by Representative Farrow: AN ACT relating to primary elections.

HB 74, by Representative Worthington: AN ACT relating to the joint election of the Governor and Lieutenant Governor.

HB 75, by Representative Sheehan: AN ACT relating to campaign finance.

HB 76, by Representative Noe: AN ACT relating to education.

HB 77, by Representative Little: AN ACT relating to the Workforce Development Cabinet.

HB 78, by Representative Gray: AN ACT relating to absentee ballots.

HB 79, by Representative J. Harper: AN ACT relating to preschool education.

HB 80, by Representative Ridley: AN ACT relating to desecration of venerated objects.

HB 81, by Representative K. Harper: AN ACT proposing amendments to Sections 170, 171, and 181 of the Constitution of Kentucky relating to taxation.

HB 82, by Representative J. Harper: AN ACT relating to the county judge/executive.

HB 83, by Representative Allen: AN ACT relating to county government.

HB 84, by Representative Cyrus: AN ACT relating to county government.

HB 85, by Representative Arnold: AN ACT relating to water districts.

HB 86, by Representative Morris: AN ACT relating to the Kentucky Rural Economic Development Authority and declaring an emergency.

HB 87, by Representative Riggs: AN ACT relating to counties.

HB 88, by Representative Yates: AN ACT relating to metropolitan sewer districts.

HB 89, by Representative Lear: AN ACT relating to economic development.

HB 90, by Representative Scorsone: AN ACT relating to access to health care.

HB 91, by Representative J. Harper: AN ACT relating to land surveying.

HB 92, by Representative Scorsone: AN ACT relating to student health insurance.

HB 93, by Representative Turner: AN ACT relating to advanced registered nurse practitioners.

HB 94, by Representative L. Clark: AN ACT relating to barbers.

HB 95, by Representatives Mason and Mack: AN ACT relating to the sale of human organs.

HB 96, by Representative Lear: AN ACT relating to motor vehicle insurance discounts for compliance with local seat safety belt ordinances.

HB 97, by Representative Scorsone: AN ACT relating to health insurance.

HB 98, by Representatives Casebier and Lear: AN ACT relating to crimes and punishments.

HB 99, by Representatives Worthington, Morris, Johnson, Richards, P. Clark, Rapier, Richardson, Gray, Blevins, Barrows, Noe, L. Clark, Nelson, Crupper, McElroy, Ark, Lewis, Arnold, Farrow, Jones, Donnermeyer, Bruce, Cyrus, Mack, Sheehan, Burch, Ward and Gregory: AN ACT relating to the Vietnam veterans' bonus and making an appropriation therefor.

HB 100, by Representative Strong: AN ACT relating to economic assistance for local governments and schools, making an appropriation, and declaring an emergency.

HB 101, by Representatives Hancock, Long, Mack, Coleman, Barrows, Farrow and Crupper: AN ACT relating to retirement and declaring an emergency.

HB 102, by Representative L. Clark: AN ACT relating to local government accountability.

HB 103, by Representative Lewis: AN ACT relating to neighborhood assistance tax credits.

HB 104, by Representatives Farley and Cyrus: AN ACT relating to income taxes.

HB 105, by Representative Mack: AN ACT relating to occupational license tax for schools.

HB 106, by Representatives Donnermeyer and Jones: AN ACT relating to open records of public agencies.

HB 107, by Representative Blandford: AN ACT relating to creation of the Kentucky Long-Term Policy Research Center, and making an appropriation therefor.

HB 108, by Representative L. Clark: AN ACT relating to appointments to boards and commissions.

HB 109, by Representative Lear: AN ACT relating to crimes and punishments.

HB 110, by Representative J. Harper: AN ACT relating to boats and boating.

HB 111, by Representative Cyrus: AN ACT relating to occupational safety and health of employees.

HB 112, by Representative Riggs: AN ACT relating to motor vehicle insurance.

HB 113, by Representatives Mason, Hancock and Coleman: AN ACT relating to an early retirement program and declaring an emergency.

HB 114, by Representatives Farley and Cyrus: AN ACT relating to individual income taxation.

HB 115, by Representative Long: AN ACT relating to domestic violence and abuse.

HB 116, by Representatives Burch and Palumbo: AN ACT relating to children with emotional disability or severe emotional disability and making an appropriation therefor.

HB 117, by Representative Ark: AN ACT relating to blood donations.

HB 118, by Representative J. Harper: AN ACT relating to the ethics of public servants.

HB 119, by Representative Gee: AN ACT relating to property taxes.

HB 120, by Representatives Burch and Palumbo: AN ACT relating to the Department for Social Services.

HB 121, by Representatives Burch and Palumbo: AN ACT relating to children and making an appropriation therefor.

HB 122, by Representatives Burch and Palumbo: AN ACT relating to the family preservation program and making an appropriation therefor.

HB 123, by Representative Lear: AN ACT relating to community corrections programs.

HB 124, by Representatives Morris, Bruce, Ballard, Richardson, Hancock, Gregory, Maggard, Ark, Lile and Zimmerman: AN ACT relating to state veterans' cemeteries and declaring an emergency.

HB 125, by Representative Lear: AN ACT relating to sentencing in criminal cases.

HB 126, by Representative Mack: AN ACT relating to county boards of election.

HB 127, by Representative Ridley: AN ACT relating to District Courts.

HB 128, by Representatives Hancock, Farrow, K. Harper, Northup, Friebert, Arnold and Barrows: AN ACT relating to the Legislative Program Review and Investigations Committee.

HB 129, by Representative Lear: AN ACT relating to criminal justice statistics.

HB 130, by Representative Lear: AN ACT relating to juvenile records and their use.

HB 131, by Representative J. Harper: AN ACT relating to nominating petitions for regular elections.

HB 132, by Representative Lear: AN ACT relating to controlled substances.

HB 133, by Representative Hancock: AN ACT relating to retirement.

HB 134, by Representative Hancock: AN ACT relating to flood control, making an appropriation therefor, and declaring an emergency.

HB 135, by Representative Hancock: AN ACT relating to retirement programs.

HB 136, by Representatives Hancock, Callahan, Lear and Donnermeyer: AN ACT relating to crime stoppers organizations.

HB 137, by Representative Hancock: AN ACT relating to highways.

HB 138, by Representative Hancock: AN ACT relating to trailer registration.

HB 139, by Representative Hancock: AN ACT relating to the Kentucky Historical Society.

HB 140, by Representatives LeMaster and Bronger: AN ACT relating to inheritance tax.

HB 141, by Representative Hancock: AN ACT relating to prisoner of war license plates.

HB 142, by Representative Rapier: AN ACT relating to teacher scholarships.

HB 143, by Representative Rapier: AN ACT relating to political activities of school employees.

HB 144, by Representative Rapier: AN ACT relating to school board elections.

HB 145, by Representative Rapier: AN ACT relating to local exchange telephone service.

HCR 1, by Representative J. Harper: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study on the feasibility of stockpiling and blending Kentucky coal at a deep water port with access to the Gulf of Mexico.

HCR 2, by Representative J. Harper: A CONCURRENT RESOLUTION authorizing the establishment of a Task Force on Governmental Ethics.

HR 6, by Representatives Callahan, Donnermeyer and Sheehan: A RESOLUTION adjourning the House in loving memory and honor of Tim Freudenberg.

HR 7, by Representative Adkins: A RESOLUTION in loving memory and honor of George D. Conley.

HR 8, by Representative Rapier: A RESOLUTION designating My Old Kentucky Home Festival of Quilts Show as the official Kentucky quilt show.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 4, HB 21, HB 22, HB 5, HB 23**

Appropriations and Revenue: **HB 2, HB 99, HB 100, HB 103, HB 104, HB 3, HB 119, HB 107, HB 114**

Banking and Insurance: **HB 96, HB 97, HB 112**

Business Organizations and Professions: **HB 91, HB 94**

Cities: **HB 1, HB 24, HB 66, HB 25, HB 8, HB 26, HB 27, HB 11, HB 7, HB 28, HB 67, HB 63, HB 29, HB 64, HB 65**

Counties and Special Districts: **HB 102, HB 83, HB 19, HB 84, HB 82, HB 85, HB 87, HB 15, HB 88, HB 17**

Economic Development: **HB 86, HB 89, HCR 1**

Education: **HB 68, HB 70, HB 72, HB 76, HB 77, HB 105, HB 79**

Elections and Constitutional Amendments: **HB 69, HB 71, HB 9, HB 18, HB 10, HB 73, HB 75, HB 47, HB 78, HB 81, HB 48, HB 57, HB 49, HB 53, HB 55, HB 56, HB 54, HB 50, HB 51, HB 52, HB 126, HB 131, HB 74**

Health and Welfare: **HB 90, HB 92, HB 93, HB 95, HB 117, HB 120, HB 121, HB 122**

Judiciary: **HB 98, HB 37, HB 38, HB 39, HB 40, HB 41, HB 42, HB 43, HB 44, HB 45, HB 46, HB 20, HB 109, HB 61, HB 115, HB 116, HB 80, HB 123, HB 125, HB 127, HB 129, HB 130, HB 132**

Labor and Industry: **HB 111**

Natural Resources and Environmental Protection: **HB 35, HB 58, HB 60**

State Government: **HB 118, HB 101, HB 16, HB 108, HB 14, HB 106, HB 12, HB 13, HB 113, HB 124, HB 128, HCR 2**

Tourism and Energy: **HB 6, HB 36, HB 62**

Transportation: **HB 30, HB 31, HB 32, HB 33, HB 34, HB 59, HB 110**

Motions, Petitions and Communications

Representative Stumbo announced plans for convening the House of Representatives for the 1992 Regular Session as follows:

Tuesdays through Thursdays, 2:00 p.m.
Mondays, 4:00 p.m.
Fridays, 9:00 a.m.

Representative Stumbo moved that the rules be suspended for introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 146, by Representative Donnermeyer: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 147, by Representatives Long and Richardson: AN ACT relating to the General Assembly.

HB 148, by Representative Scorsone: AN ACT relating to crimes and punishments.

HB 149, by Representatives Scorsone and Noe: AN ACT relating to higher education.

HB 150, by Representative Scorsone: AN ACT relating to access to health care.

HB 151, by Representative Little: AN ACT relating to insurance.

HB 152, by Representative Little: AN ACT relating to health benefits for state employees.

HB 153, by Representative Overstreet: AN ACT relating to prescription drugs.

HB 154, by Representative Heleringer: AN ACT relating to guardians and conservators.

HB 155, by Representative Heleringer: AN ACT relating to candidates for public office.

HB 156, by Representative Long: AN ACT relating to state leases.

HB 157, by Representative Long: AN ACT relating to the Commonwealth of Kentucky's procurement of architectural and engineering services.

HB 158, by Representative Burch: AN ACT relating to medical records.

HB 159, by Representative Burch: AN ACT relating to alcoholic beverages.

HB 160, by Representative Burch: AN ACT relating to health services.

HB 161, by Representative R. Smith: AN ACT relating to billboards.

HB 162, by Representative Farrow: AN ACT relating to health benefits for public employees.

HB 163, by Representatives Yates and Bronger: AN ACT relating to insurance on motorboats.

HB 164, by Representative Ridley: AN ACT relating to the unemployment insurance program.

HB 165, by Representative Ridley: AN ACT relating to corrections personnel.

HB 166, by Representative Maggard: AN ACT relating to royalties received from the mining of Robinson Forest.

HB 167, by Representative Heleringer: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 168, by Representative Gregory: AN ACT relating to elections.

HB 169, by Representative J. Harper: AN ACT relating to boats and boating.

HB 170, by Representative J. Harper: AN ACT relating to motor vehicle tires.

HB 171, by Representative Brown: AN ACT relating to education, and providing for the creation of an interagency commission on educational and job training coordination.

HB 172, by Representative K. Harper: AN ACT relating to property taxes.

HB 173, by Representative Overstreet: AN ACT relating to driving history records.

HB 174, by Representatives Richardson and Arnold: AN ACT relating to bicycles.

HB 175, by Representative Brown: AN ACT relating to local option elections.

HB 176, by Representative Brown: AN ACT relating to solid waste recycling.

HB 177, by Representative J. Harper: AN ACT relating to boats and boating.

HB 178, by Representative Brown: AN ACT relating to on-site sewage disposal.

HB 179, by Representative Johnson: AN ACT relating to crimes and punishments.

HB 180, by Representative Heleringer: AN ACT relating to minors.

HB 181, by Representative Noe: AN ACT relating to education and making an appropriation therefor.

HB 182, by Representative Noe: AN ACT relating to education.

HB 183, by Representative Noe: AN ACT relating to school budgets.

HB 184, by Representative Little: AN ACT relating to motor vehicle usage taxes.

HB 185, by Representative Little: AN ACT relating to motor vehicle insurance.

HB 186, by Representative Little: AN ACT relating to the Workforce Development Cabinet.

HB 187, by Representative Ballard: AN ACT relating to boilers.

HB 188, by Representative Ballard: AN ACT relating to Commercial Driver's Licenses.

HB 189, by Representative Ballard: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 190, by Representative Little: AN ACT relating to school building design.

HB 191, by Representative Geveden: AN ACT relating to tourism zones and making an appropriation therefor.

HB 192, by Representative Geveden: AN ACT relating to maternal health.

HB 193, by Representative Geveden: AN ACT relating to reporting of disease.

HB 194, by Representative Long: AN ACT relating to capital planning.

HCR 9, by Representative Scorsone: A CONCURRENT RESOLUTION to create a Task Force to devine the minimum array of health services to which every Kentuckian has the right.

HCR 10, by Representative Brown: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Labor and Industry to study temporary and part-time work, particularly the nature and scope of benefits available to part-time employees.

Motions, Petitions and Communications (Continued)

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 6**:

HR 6, A RESOLUTION adjourning the House in loving memory and honor of Tim Freudenberg.

With deepest respect, we pay homage and tribute to Tim Freudenberg.

WHEREAS, Tim Freudenberg, a native of Newport, Kentucky, was prematurely taken from us at age 29 and crossed these earthly bounds on December 22, 1991; and

WHEREAS, Tim Freudenberg attended Newport Catholic High School and graduated from the University of Kentucky in 1985 with a degree in Political Science; and

WHEREAS, Tim Freudenberg's love of politics became evident as he served as student body president and student trustee of the University of Kentucky; and

WHEREAS, Tim Freudenberg embarked upon a series of political campaigns on behalf of Terry Mann, Judy West, and Brereton Jones; and

WHEREAS, after serving as fourth district field coordinator in the Jones for Governor Campaign, Tim Freudenberg was appointed as Director of Boards and Commissions, shortly before he was taken from us;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body does hereby express its profound sense of loss upon the passing of Tim Freudenberg and extends to his family its most heartfelt sympathy.

Section 2. That when the House adjourns this day, it does so in loving memory and honor of Tim Freudenberg.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ms. Connie Freudenberg. 839 Central Avenue, Newport, Kentucky 41071.

HR 6 was adopted by voice vote.

Representative Adkins moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Adkins moved the adoption of the following **HR 7**:

HR 7, A RESOLUTION in loving memory and honor of George D. Conley.

With deepest respect, we pay homage and tribute to George D. Conley.

WHEREAS, George D. Conley, a native of Paintsville, Kentucky was born on May 29, 1925 and crossed these earthly bounds on January 1, 1992; and

WHEREAS, George D. Conley was the loving son of George W. Conley and Stella Meade Conley; and

WHEREAS, George D. Conley was a graduate of Marshall University in Huntington, West Virginia; and

WHEREAS, George D. Conley served his country with distinction during World War II, receiving a Bronze Star and a Purple Heart, and was a member of the National American Legion, Ashland's American Legion Post No. 76 and the Veterans of Foreign Wars; and

WHEREAS, George D. Conley was best known for his participation in the sport of basketball, refereeing college basketball and in the American Basketball Association; and

WHEREAS, George D. Conley once was voted one of the top college basketball referees in the nation, and being a Southeastern Conference official, he refereed games in the Ohio Valley Atlantic Coast and Southern conferences; and

WHEREAS, George D. Conley was superintendent and coach at Cable Ohio High School, basketball coach and teacher at Ashland High School from 1949 to 1954, taking the Ashland High "Tomcats" twice to the state tournament; and

WHEREAS, George D. Conley was a vice president and director of the Citizens National Bank of Paintsville; and

WHEREAS, George D. Conley served his constituents well when he was elected to a four year term as twenty-fifth District senator, which district included Boyd, Lawrence and Johnson counties; and

WHEREAS, George D. Conley was the loving husband of Wanda Manley Conley and adored father of former University of Kentucky basketball player Larry Conley, Joe Conley, Linda Conley Meyers, Jennifer Conley Gray and Pam Conley Layman, and proud grandfather of ten grandchildren; and

WHEREAS, all who knew and admired George D. Conley will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the passing of George D. Conley, and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, Tuesday, January 7, 1992, it does so in loving memory and honor of George D. Conley.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Wanda Manley Conley, 2436 Roosevelt Avenue, Ashland, Kentucky 41102.

HR 7 was adopted by voice vote.

Announcements

The following meeting was announced:

Minority Caucus, Room 327 upon adjournment.

The following meetings were cancelled:

Education, Counties and Special Districts, Tourism and Energy, Labor and Industry, Economic Development.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 8, 1992.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Turner, Walker, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Heleringer, LeMaster, Lile, Richardson.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 8, 1992

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Gregory.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 7, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 195, by Representative Bowling: AN ACT relating to civil actions.

HB 196, by Representative Bowling: AN ACT relating to compulsory attendance.

HB 197, by Representative Bowling: AN ACT relating to bonus payments.

HB 198, by Representative Bowling: AN ACT relating to motor vehicle usage tax.

HB 199, by Representative Gray: AN ACT relating to precinct election officers.

HB 200, by Representative Lear: AN ACT relating to oil and gas production reporting, and making an appropriation therefor.

HB 201, by Representative R. Smith: AN ACT relating to motor carriers.

HB 202, by Representatives T. O. Smith and Allen: AN ACT relating to a veterans' bonus and making an appropriation.

HB 203, by Representatives Donnermeyer and Callahan: AN ACT relating to abortion facilities.

HB 204, by Representative Farrow: AN ACT relating to general lines insurance agents.

HJR 11, by Representatives Hancock, Little, Pritchett and Yates: A JOINT RESOLUTION mandating the Department of Highways to develop a formal policy on local participation in the funding of highway projects.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 140, HB 172**

Banking and Insurance: **HB 151, HB 152, HB 162, HB 185**

Business Organizations and Professions: **HB 136, HB 159, HB 175**

Counties and Special Districts: **HB 134**

Education: **HB 142, HB 143, HB 144, HB 149, HB 171, HB 181, HB 182, HB 183, HB 186, HB 190**

Elections and Constitutional Amendments: **HB 155, HB 168**

Health and Welfare: **HB 150, HB 153, HB 158, HB 160, HB 164, HB 180, HB 192, HB 193, HCR 9**

Judiciary: **HB 146, HB 148, HB 154, HB 167, HB 179, HB 189**

Labor and Industry: **HB 187, HCR 10**

Natural Resources and Environmental Protection: **HB 166, HB 170, HB 176, HB 178**

State Government: **HB 133, HB 135, HB 147, HB 156, HB 157, HB 165, HB 194, HB 139**

Tourism and Energy: **HB 145, HB 161, HB 191**

Transportation: **HB 137, HB 141, HB 163, HB 169, HB 173, HB 174, HB 177, HB 184, HB 188, HB 138**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism Development and Energy: **HB 6, HB 62**

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Donnermeyer moved that the rules be suspended to waive the three day posting requirement on **HB 1, HB 8, HB 11, HB 24, HB 25** and **HB 26**. Agreed.

Representative Stumbo moved that **HB 116** be reassigned to the Committee on Health and Welfare. Agreed.

Introduction of Bills and Resolutions

HB 205, by Representatives Bentley, Mason, Collins, Maggard, and Stumbo: AN ACT relating to economic development.

HB 206, by Representative Gray: AN ACT relating to elections on local government issues.

HB 207, by Representative Cyrus: AN ACT relating to handicapped parking.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Counties and Special Districts: **HB 15, HB 17, HB 19, HB 82**

Announcements

The following meetings were announced:

Health and Welfare, 12 noon, Room 129, January 9, 1992.

Natural Resources and Environmental Protection, 10:00 a.m., January 9, 1992.

Cities, 12 noon, Room 125, January 9, 1992.

The following meetings were cancelled:

Transportation, State Government, Elections and Constitutional Amendments.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 9, 1992.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Bronger, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Heleringer, LeMaster, Lile, Richardson.

The motion to adjourn was adopted.

THURSDAY, JANUARY 9, 1992

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Clarke, Little, and Overstreet.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 8, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 208, by Representatives Farley, Walker, Napier, Nunn, Todd, Strong, Zimmerman, Altman, Williams, Mullinix, Jensen, Gee, Keith, and T. O. Smith: AN ACT relating to individual income tax.

HB 209, by Representative McElroy: AN ACT relating to property taxes.

HB 210, by Representative K. Harper: AN ACT relating to verdicts and sentencing.

HB 211, by Representative Palumbo: AN ACT relating to retirement survivor benefits.

HB 212, by Representative Palumbo: AN ACT relating to retirement.

HB 213, by Representative Palumbo: AN ACT relating to retirement boards in urban counties.

HB 214, by Representative Palumbo: AN ACT relating to marriage.

HB 215, by Representative Johnson: AN ACT relating to liquified petroleum gas containers.

HB 216, by Representatives Strong and Napier: AN ACT relating to property taxes.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Banking and Insurance: **HB 204**

Economic Development: **HB 205**

Education: **HB 196**

Elections and Constitutional Amendments: **HB 199, HB 206**

Judiciary: **HB 195, HB 203**

State Government: **HB 197, HB 202**

Tourism and Energy: **HB 200**

Transportation: **HJR 11, HB 198, HB 201, HB 207**

Report of Committees

The Committee on Cities reported **HB 1, HB 8, HB 11, HB 24, HB 25** and **HB 26** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to fire departments in cities of the second class or urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.500 is amended to read as follows:

(1) The chief of the fire department in cities of the second class or urban-county governments***, or an officer acting under his authority,*** shall be present at all fires and investigate their cause. He may examine witnesses, compel the production of testimony, administer oaths, make arrests, and enter any building for the purpose of examination that, in his opinion, is in danger from fires. He shall report his proceedings to the city legislative body when required.

(2) The chief shall direct and control the operations of the members of the fire department in the discharge of their duties. He shall have access to and use of all cisterns, fireplugs, the waters of the waterworks, and the cisterns of private persons, for the purpose of extinguishing fires. He shall have the right to examine all cisterns, and all plugs and pipes of the waterworks, to see that they are in condition for use in case of fire. He shall have control of all buildings, hose, engines, and other equipment provided for the fire department. He shall perform such other duties as the legislative body shall, by ordinance, prescribe.

(3) The fire department of each second-class city or urban-county government shall be divided into three (3) platoons. Each platoon shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank, or benefits of the members and officers of the fire department, shall not be reduced as a result of this subsection.

(4) In each city of the second class or urban-county government, all employees of the fire department shall be given not less than two (2) weeks leave of absence annually, with full pay.

HB 8, AN ACT relating to publication of legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.110 is amended to read as follows:

As used in KRS 424.110 to 424.370:

(1) "Publication area" means the city, county, district, or other local area for which an advertisement is required by law to be made. An advertisement shall be deemed to be for a particular city, county, district, or other local area if it concerns an official activity of ***the*** [~~such~~] city, county, district, or other area or of any governing body, board, commission, officer, agency, or court thereof, or if the ***subject of the*** [~~matter of which~~] advertisement [~~is made~~] concerns particularly the people of ***the*** [~~such~~] city, county, district, or other area;

(2) "Advertisement" means any matter required by law to be published.

(3) "Zoned edition" means a newspaper edition published at least once a week, distributed in a specific geographic region of the newspaper's circulation area, and containing reporting and advertising of interest to subscribers in that geographic region.

Section 2. KRS 424.120 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, ***if*** [~~whenever~~] an advertisement for a publication area is required by law to be published in a newspaper, the publication ***shall*** [~~must~~] be made in a newspaper that meets the following requirements:

(a) It ***shall*** [~~must~~] be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It ***shall*** [~~must~~] be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two-year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two-year period, shall be deemed to be of regular issue if it is the only paper in the publication area and has a paid circulation equal to at least ten percent (10%) of the population of the publication area. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and

(c) It ***shall*** [~~must~~] bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content ***shall*** [~~must~~] be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve-month period.

(d) If, in a publication area there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide paid circulation as shown by the average number of paid copies of each issue as shown in its published statement of ownership as filed on October 1 for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.

(e) For the purposes of KRS Chapter 424, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.

(2) ***(a)*** If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. ***If the qualified newspaper publishes a zoned edition which is distributed to regular subscribers within the publication area, any advertisement required by law to be published in the publication area may be published in the zoned edition distributed in that area.***

(b) If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for ***that*** [~~such~~] county, any advertisements required to be published for ***the*** [~~such~~] county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county[~~,~~] published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each [~~such~~] separate publication area shall be published in a newspaper qualified under this section to publish advertisements for ***the*** [~~such~~] area.

HB 11, AN ACT changing the classification of the City of Jeffersonville, in Montgomery County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Jeffersonville, in Montgomery County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Jeffersonville, in Montgomery County, is transferred from the sixth to the fifth class of cities.

HB 24, AN ACT relating to water heating devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.200 is amended to read as follows:

(1) No water heating device shall be sold or offered for sale [~~in counties with cities of the first class, second class, or with urban-county governments,~~] in the Commonwealth of Kentucky unless it contains [~~thereon~~] a serial number ***on it***. As used in this section, "water heating device" means any pressure vessel which heats, stores and supplies potable water for domestic or commercial purposes other than for space heating.

(2) All retailers, wholesalers and installers selling or offering for sale a water heating device shall within thirty (30) days of the date of sale forward a list of names and addresses of purchasers along with the serial numbers of the devices purchased to ***the department, or to*** the appropriate agency of [~~state,~~] county or city government having jurisdiction.

HB 25, AN ACT relating to plumbers and plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means Department of Housing, Buildings and Construction;

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall not include the installation of on-site sewage disposal systems, except for the piping, fixtures, or other appurtenances needed within the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building, other than piping serving firefighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal, but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building;

(5) "Public building" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm situated on ten (10) acres or more of land which is located outside the corporate limits of a municipality ***and not connected to a public water supply***;

(9) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(10) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction; and

(11) "Code" means the Kentucky State Plumbing Code.

HB 26, AN ACT relating to ground-fault circuit-interrupters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Department" means the Department of Housing, Buildings, and Construction;

(2) "Fountain" means all devices that artificially produce or contain a jet or stream of water;

(3) "Ground-fault circuit-interrupter" means a device intended for the protection of the general public that functions to deenergize a circuit or a portion thereof within an established period of time when a current to ground exceeds a predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit;

(4) "Pool" means all swimming, wading, therapeutic, decorative, ornamental, display, and reflection pools, hot tubs, spas, and hydromassage bathtubs, whether permanently installed or storable; and

(5) "Public place" means any building, structure, or location that is accessible to the general public for business, civic, educational, political, religious, recreational, social, or travel purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) A ground-fault circuit-interrupter shall be installed on all existing and new fountains and pools that are located in a public place within the Commonwealth, in accordance with standards set forth in the National Electrical Code adopted by administrative regulations of the department.

(2) A state or local government agency shall not promulgate an administrative regulation or ordinance to exempt any fountain or pool located in a public place from the required installation of a ground-fault circuit-interrupter, regardless of the age of construction of the fountain or pool.

Section 3. The provisions of this Act shall become effective January 1, 1993.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 2, HB 3**

Judiciary: **HB 61, HB 146, HB 148, HB 154, HB 167, HB 179**

Education: **HB 143, HB 144, HB 149, HB 181, HB 182, HB 183**

Elections and Constitutional Amendments: **HB 47, HB 81, HB 48, HB 57, HB 49, HB 55, HB 56, HB 54, HB 50, HB 52, HB 155**

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the purpose of introducing guests. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 217, by Representative Richards: AN ACT relating to the Council on Higher Education.

HB 218, by Representative Walker: AN ACT relating to retirement.

HB 219, by Representatives McElroy and Bentley: AN ACT relating to financing fire protection programs.

HB 220, by Representative Hancock: AN ACT relating to purchasing retirement credit.

HR 12, by Representative Farrow: A RESOLUTION commending the outstanding work of Jerald L. Rose upon the occasion of his retirement as Scott County's 4H Supervisor and honoring him for wholeheartedly devoting almost a quarter of a century to 4H activities.

HCR 13, by Representatives Hancock, Pritchett, Northup, Worthington, Morris, Rapier and Yates: A CONCURRENT RESOLUTION urging the executive and legislative branches to work together to secure funding for an Amtrak line for Kentucky.

HR 14, by Representatives Casebier and Lile: A RESOLUTION honoring the "Young at Hearts" of the Beth Haven Baptist Church.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 12**:

HR 12, A RESOLUTION commending the outstanding work of Jerald L. Rose upon the occasion of his retirement as Scott County's 4 H supervisor and honoring him for wholeheartedly devoting almost a quarter of a century to 4 H activities.

WHEREAS, Jerald L. Rose's enthusiasm and loyalty elevated 4 H involvement in Scott County from about 200 club members and 20 volunteers to 1600 club members and 325 volunteers; and

WHEREAS, last year, one of Jerald L. Rose's local 4 H programs produced Kentucky's top educational video in cooperation with the Scott County DARE program; and

WHEREAS, this program also produced the Commonwealth's best educational brochure and newsletter; and

WHEREAS, Jerald L. Rose has been recognized, statewide and nationally, for his conscientious leadership; and

WHEREAS, Jerald L. Rose's tireless efforts, continued diligence, and constant devotion to the principles of 4 H - Head, Heart, Hands, and Health - have brightened the lives of many Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representativs commends the outstanding work of Jerald L. Rose upon the occasion of his retirement from 4 H as supervisor of activities in Scott County.

Section 2. That this honorable body hails Jerald L. Rose to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Jerald L. Rose, 720 South Hamilton, Georgetown, Kentucky 40324.

HR 12 was adopted by voice vote.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 124, HB 12, HB 13, HB 128, HB 14, HB 108**

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the House stand at ease to await a Resolution. Agreed.

The Speaker called the house to order.

Representative Blevins moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 15, by Representative Blevins: A RESOLUTION honoring former Senator Woodford Franklin "Woody" May and wishing him a speedy return to health.

Representative Blevins moved the adoption of the following **HR 15**:

HR 15, A RESOLUTION honoring former Senator Woodford Franklin "Woody" May and wishing him a speedy return to health.

WHEREAS, Senator Woody May's courage in trying times has been an inspiration to his colleagues in this assembly and many others besides; and

WHEREAS, Senator Woody May has been, and continues to be, an example of strong devotion to his fellow citizens; and

WHEREAS, Senator Woody May is admired throughout the Commonwealth for his many legislative accomplishments and the friendships he has made and sustained through the years; and

WHEREAS, the members of the House esteem it an honor and a privilege to know Senator Woody May;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That members of the House of Representatives express their sincerest wishes for Senator Woody May's recovery.

Section 2. That this honorable body proudly honors Senator Woody May for his outstanding accomplishments.

Section 3. That the Clerk of the House transmit a copy of this Resolution to Senator Woodford Franklin May, Route 1, Box 736, West Liberty, Kentucky 41472.

HR 15 was adopted by voice vote.

Representative Blevins moved that a call of the roll be taken to show co-sponsors of **HR 15**. Agreed.

On the roll call the vote was yeas 97—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Ballard moved that the rules be suspended to allow floor privileges to a special guest. Agreed.

Representative Ballard moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 16, by Representative Ballard: A RESOLUTION in honor of Honorable and Mrs. Thomas Spain upon the occasion of their thirty-eighth Wedding Anniversary.

Representative Ballard moved the adoption of the following **HR 16**:

HR 16, A RESOLUTION in honor of Honorable and Mrs. Thomas Spain upon the occasion of their thirty-eighth Wedding Anniversary.

WHEREAS, marriage can be likened to a flower, watered by the showers of tender affection, expanded by the cheering glow of kindness, and guarded by the impenetrable barrier of unshaken confidence; and

WHEREAS, Thomas and Frances Spain entered into the bonds of holy matrimony on January 9, 1954, at Maxwell Street Presbyterian Church in Lexington, Kentucky; and

WHEREAS, Thomas and Frances Spain are the loving parents of Edward Butler Spain and David Ross Spain, and grandparents to three grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly honors the Honorable and Mrs. Thomas Spain on the occasion of their thirty-eighth Wedding Anniversary on January 9, 1992.

Section 2. That when the House of Representatives adjourns this day, it does so in honor of the Honorable and Mrs. Thomas Spain upon the occasion of their thirty-eighth Wedding Anniversary.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Honorable and Mrs. Thomas Spain, Supreme Court of Kentucky, State Capitol, Frankfort, Kentucky.

HR 16 was adopted by voice vote.

Representative Casebier moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Casebier moved the adoption of the following **HR 14**:

HR 14, A RESOLUTION honoring the "Young at Hearts" of the Beth Haven Baptist Church.

WHEREAS, on January 16, 1992, at 12:30 in the afternoon, there will be a vast gathering at the Beth Haven Baptist Church on Johnsontown Road in Louisville; and

WHEREAS, this gathering will congregate in a community-wide celebration of "Young at Hearts"; and

WHEREAS, to be a member of "Young at Hearts", a person must be fifty-five years or older and an upstanding citizen dedicated to helping his fellow man; and

WHEREAS, Pastor John Russell and Assistant Pastor Robert Murr of the Beth Haven Baptist Church have recognized the important contributions that the "Young at Hearts" have made to their church and community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby commend and applaud the "Young at Hearts" for their energy and selfless service.

Section 2. That the House commends the "Young at Hearts" as an example to all senior citizens in the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Rev. Robert Murr, "Young at Hearts" Director, Beth Haven Baptist Church, 5515 Johnsontown Road, Louisville, Kentucky 40272.

HR 14 was adopted by voice vote.

Announcements

The following meeting was announced:

Jefferson County Democratic Caucus in Room B upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, January 10, 1992.

On the roll call the vote was yeas 85—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Brown, Bruce, Bryant, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Gee, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Long, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Deskins, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, JANUARY 10, 1992

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, Bryant, Clarke, Geveden, Gregory, Heleringer, Johnson, Jones, Little, Noe, Overstreet, Ridley, Riggs, Riner, R. Smith, Strong, Walker, and Williams.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 9, 1992 be dispensed with and the same approved. Agreed.

The Speaker filed and the Clerk read a writ of election for the Seventy-first District.

Introduction of Bills and Resolutions

HB 221, by Representatives Strong, Napier, Noland, Gee, Toby Turner, Reinhardt and Todd: AN ACT relating to sport hunting and sport fishing licenses.

HB 222, by Representative Rapier: AN ACT relating to alcoholic beverage control and declaring an emergency.

HB 223, by Representative Noe: AN ACT relating to exceptional children.

HB 224, by Representative Noe: AN ACT relating to class sizes.

HB 225, by Representative Noe: AN ACT relating to education.

HB 226, by Representative Noe: AN ACT relating to student discipline.

HB 227, by Representative Noe: AN ACT relating to education.

HB 228, by Representative Brown: AN ACT relating to solid waste reuse.

HB 229, by Representatives Bryant, Jensen, J. Harper, Strong, Lyne, Sanders, Nunn, Toby and Noland: AN ACT relating to individual income tax.

HB 230, by Representatives Bryant, Jensen, J. Harper, Strong, Toby, Noland, Farley and Ford: AN ACT relating to proposed amendments to the Kentucky Constitution.

HB 231, by Representatives Bryant, Jensen, J. Harper, Strong, Collins, Lyne, Farley, Sanders, Nunn, Toby, Bentley, Noland and Ford: AN ACT relating to motor vehicles.

HB 232, by Representative McElroy: AN ACT relating to soybeans.

HB 233, by Representative Gray: AN ACT relating to retirement.

HR 17, by Representative Stumbo: A RESOLUTION endorsing the continued preservation of the Middle Creek Battlefield and its nomination as a National Historic Landmark.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 208**

Cities: **HB 211, HB 212, HB 213, HB 218**

Counties and Special Districts: **HB 209**, **HB 219**

Education: **HB 217**

Health and Welfare: **HB 214**

Judiciary: **HB 210**

State Government: **HB 220**

Tourism Development and Energy: **HB 215**

Transportation: **HCR 13**, **HB 216**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Counties and Special Districts: **HB 134**

Calendar

HB 1, **HB 8**, **HB 11**, **HB 24**, **HB 25** and **HB 26** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Stumbo moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Stumbo moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Coleman; **HB 4**, Representative Noland; **HB 23**, Representatives Bruce and Morris; **HB 40**, Representative Lewis; **HB 81**, Representatives Heleringer and R. Smith; **HB 89**, Representative Lewis; **HB 113**, Representatives Bentley, Collins, J. Harper and Maggard; **HB 156**, Representative Richardson; **HB 169**, Representative Toby; **HB 203**, Representative Heleringer; **HB 220**, Representative Bentley; **HCR 1**, Representative Mason.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION endorsing the continued preservation of the Middle Creek Battlefield and its nomination as a National Historic Landmark.

WHEREAS, the Battle of Middle Creek occurred 130 years ago today, January 10, 1862, at the Forks of Middle Creek in Floyd County; and

WHEREAS, the Union troops commanded by Colonel James A. Garfield and Confederate troops commanded by Brigadier General Humphrey Marshall, engaged in the most significant Civil War battle on Eastern Kentucky soil, resulting in the control of Eastern Kentucky by the Union; and

WHEREAS, the Middle Creek Battlefield is being considered by the National Park Service for designation as a National Historic Landmark; and

WHEREAS, the Fitzpatrick Family has faithfully preserved the Middle Creek Battlefield for 130 years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the Commonwealth of Kentucky endorses the continued preservation of the Middle Creek Battlefield and its nomination as a National Historic Landmark.

Section 2. That this honorable body calls upon the Kentucky Heritage Council to immediately inform the appropriate officials of the National Park Service of this endorsement.

Section 3. That the Clerk of the House is directed to transmit copies of this Resolution to Franklin D. Fitzpatrick, 37 South Lake Drive, Suite 200, P.O. Box 326, Prestonsburg, Kentucky, 41653 and David Morgan, Kentucky Heritage Council, 677 Comanche Trail, Frankfort, Kentucky 40601.

HR 17 was adopted by voice vote.

Announcements

The following meeting was announced:

The Committee on Rules upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 13, 1992.

On the roll call the vote was yeas 73—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, Hatcher, Hourigan, Jensen, Keith, Kerr, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stumbo, Toby, Todd, Turner, Wayne, Ward, Worthington, Yates, Zimmerman. Nays 4—Deskins, LeMaster, Lile, Richardson.

The motion to adjourn was adopted.

MONDAY, JANUARY 13, 1992

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Richard King, Ivis Bible Church, Hindman.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and Williams.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 10, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 234, by Representative Donnermeyer: AN ACT relating to the transfer of incorporated areas between cities of the second through sixth classes, and declaring an emergency.

HB 235, by Representative Hancock: AN ACT relating to free tuition for firefighter's relatives.

HB 236, by Representative Sheehan: AN ACT relating to the small claims division of District Court.

HB 237, by Representatives Callahan and Bronger: AN ACT relating to the sale of distilled spirits and wine.

HR 18, by Representative Farrow: A RESOLUTION honoring Barbara Cockrum, "Principal of the Year" for Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 232**

Appropriations and Revenue: **HB 231, HB 229**

Business Organizations and Professions: **HB 222**

Education: **HB 223, HB 224, HB 225, HB 226, HB 227**

Elections and Constitutional Amendments: **HB 230**

Natural Resources and Environmental Protection: **HB 221, HB 228**

State Government: **HB 233**

Report of Committees

The Committee on Rules reported that **HB 1**, **HB 8**, **HB 11**, **HB 24**, **HB 25** and **HB 26** have been posted for passage in the Orders of the Day for January 14, 1992.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 4, HB 5, HB 21, HB 22, HB 23**

Elections and Constitutional Amendments: **HB 53, HB 51**

Motions, Petitions and Communications

Pursuant to **HR 5**, the Speaker appointed the following committee to wait upon the Governor: Representative Barrows, Chairman, Representatives Ridley, Hancock, Jensen, and Palumbo.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION honoring Barbara Cockrum, "Principal of the Year" for Kentucky.

WHEREAS, Barbara Cockrum has been principal of Eastern Elementary School for seven years and has been in the Scott County school system for eight years; and

WHEREAS, Barbara Cockrum taught language, arts and social studies on the elementary educational level for twenty-five years; and

WHEREAS, Barbara Cockrum is the 1992-93 recipient of the National Association of Elementary School Principals "Principal of the Year" award for Kentucky; and

WHEREAS, Barbara Cockrum exhibits a character based on sound standards of appreciation for developing young minds; and

WHEREAS, Barbara Cockrum is held in high esteem by her peers who have supported her in many endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body commends and honors Barbara Cockrum for being the 1992-93 recipient of the National Association of Elementary School Principals "Principal of the Year" award for Kentucky.

Section 2. That this honorable body hails Barbara Cockrum for her accomplishments in exerting formative influence on future generations.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ms. Barbara Cockrum, Principal, Eastern Elementary School, 3407 Newtown Pike, Georgetown, Kentucky 40324.

HR 18 was adopted by voice vote.

Representative Ridley moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ridley moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 4, Representatives Crupper, Donnermeyer, Farrow; **HB 64**, Representative Lear; **HB 103**, **HB 115**, Representative Farrow; **HB 211**, **HB 212**, **HB 213**, Representative Napier.

Representative Rapier moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Rapier moved the adoption of the following **HR 8**:

HR 8, A RESOLUTION designating My Old Kentucky Home Festival of Quilts Show as the official Kentucky quilt show.

WHEREAS, abounding talent and countless hours of time are involved in the designing, cutting, and piecing of quilts; and

WHEREAS, the art of quilting has played an integral role in Kentucky's heritage; and

WHEREAS, My Old Kentucky Home Festival of Quilts Show, being held in Bardstown, Kentucky on March 26 - 29, 1992, will be celebrating 200 years of Kentucky quilts and quilters;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body is proud to recognize Kentucky's artists and the sound heritage they represent.

Section 2. That My Old Kentucky Home Festival of Quilts Show, an annual event in Bardstown, Kentucky, is hereby designated the official Kentucky quilt show.

Section 3. That a copy of this Resolution be transmitted to Ms. Kay Corbett, Special Events Coordinator, Bardstown-Nelson County Tourist Commission, 107 E. Stephen Foster Avenue, Post Office Box 867, Bardstown, Kentucky 40004.

HR 8 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 238, by Representative Gregory: AN ACT relating to the quality of motor fuels.

HB 239, by Representative Long: AN ACT relating to the lease of property for state use.

HB 240, by Representatives Stokes and Long: AN ACT relating to health care.

HB 241, by Representatives Clarke and Lear: AN ACT relating to the Kentucky Rules of Evidence and declaring an emergency.

HB 242, by Representative Bowling: AN ACT relating to the expungement of criminal records.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 111, HB 187, HCR 10**

Banking and Insurance: **HB 204**

Announcements

The following meetings were announced:

Business Organizations and Professions, January 21, 1992, 12 Noon.

Agriculture and Small Business, 9:00 a.m., January 21, 1992.

Appropriations and Revenue, 9:00 a.m., January 21, 1992.

The following meetings were cancelled:

Business Organizations and Professions, January 14, 1992.

Cities, January 14, 1992.

Recess

Representative Stumbo moved that the House recess until the hour of 8:00 p.m., Monday, January 13, 1992. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB** 25, by Representative J. Harper:

Amend printed copy of **HB 25** on page 3, line 11, after the word "on", by placing brackets around and striking through "ten (10)" and inserting in lieu thereof "***five (5)***".

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

Governor Brereton C. Jones addressed the Joint Session of the General Assembly as follows:

I am honored and proud to be with you on this historic evening to review the State of our Commonwealth and to share with you our blueprint for action in the coming years. As Governor, it is my constitutional duty to appear before you from time to time to discuss our problems and to propose solutions.

But this is much more than a duty to me. It is an occasion that marks the beginning of a relationship that I believe will set a new standard for mutual respect and cooperation between the executive and legislative branches. And I think it is only fitting that this new relationship be forged in the year when we are celebrating the 200th anniversary of our statehood. What better tribute could we pay to those courageous men and women who gave us our beginning than to take this important step together.

Although I have been Governor for only a short time, I have given considerable thought to the challenges we face. Tonight, I would like to share with you some of our proposals that I believe will help us meet these challenges together.

Everyone in this chamber realizes that we are in a recession. Everyone of us has friends, family members, or constituents who are suffering from the tightening bands of economic uncertainty. This national recession is taking a very human toll in the day-to-day struggle it is imposing on our people. It is also taking its toll on our state finances.

More than 40 states have cut their budgets in the last year. Many of them have slashed spending for vital programs such as health and human services, education reform, and higher education.

Kentucky is not immune to those realities. Never before in our modern history have we faced a financial challenge of the magnitude of the one now before use. We have already taken steps to start reducing the size of government. But we will have to make some very tough choices in the days ahead — choices that in better times we would never consider.

We are making those decisions now and in two weeks time I will come before you again with the result of that process — a balanced budget that reflects my commitment to working our way through these problems.

The key to long-term success for any venture is quality people and state government is no exception. I am proud to report to the taxpayers of Kentucky that your state government has some of the hardest working, most qualified people I have ever seen.

These employees deserve our thanks and our strong support. I will work with our cabinet secretaries to develop a bonus system that will set rewards for those who reach certain standards. We must also recognize that like most large enterprises, there are some employees who are not willing to put in a good day's work for a good day's pay and we will change these attitudes or remove these people from the payroll. This is the only way that we can fairly deal with the budget crisis that confronts us.

Faced with our painful fiscal circumstances, it would be easy for us to take refuge in the numbers and do nothing. It would be easy for us to be mere caretakers. But I didn't run for Governor to do the popular thing or the expedient thing. I ran for Governor to do the right thing, to make the tough decisions.

We might be broke, but we are not broken.

We might have a revenue shortfall, but there is no shortfall of leadership ability in this chamber tonight. We might have a budget deficit, but there is no deficit of courage or spirit here.

We will solve our problems, but not with the same old solutions. Ours will be a different style and there will be some who will not understand at first.

But I make a reasonable request. If your intent is fairness and you want to help solve problems, then join us and judge us on the results. If you have other motives, then do not be offended if we drive on without you. We have so much to do and so little time in which to do it.

I cannot and I will not allow a temporary budget problem to deter us from achieving our goals or making education reform a reality, of giving every child across this Commonwealth a fair start in life, of guaranteeing adequate and affordable health care to every Kentuckian, of establishing a foundation for job creation in every community, of improving the quality of our land, air and water, and of returning government — honest, ethical government — to the people.

It is time to act and we are prepared to act to work toward our goals. I will soon submit for your consideration proposals that will focus on preserving and creating jobs across our Commonwealth. Our priority will be support for our existing jobs. But we will also seek new business investments for our state.

We will recommend enactment of the Kentucky Jobs Development Act to create jobs in technology, communications, and service industries, and to attract corporate headquarters and regional offices.

We will locate economic development offices in East Kentucky and West Kentucky where experts will be charged with developing a plan to preserve and create jobs at the county level. They will also help our county governments make the most of their assets and enhance their development efforts.

I believe we must give even greater attention to an industry that has long been a mainstay of our economy — the coal industry. We will have two experts working full-time in our Economic Development Cabinet to market Kentucky coal throughout the United States and the world.

Officially our statewide unemployment rate is 7.1 percent, but we need to understand that in reality our jobless rate is greater than that. In Eastern Kentucky alone, a recent U.K. study determined that actual unemployment was approximately 30 percent, with unemployment in some counties exceeding 50 percent.

It is imperative that we act now to alleviate this situation. We must realize that when we help one part of our Commonwealth we help all of our Commonwealth.

To that end, I am committed to returning 50 percent of the coal severance tax revenues to coal counties. Our budget for the second year of the next biennium will reflect that commitment by starting the process of phasing in the increased return with an objective of reaching the full 50 percent by the end of my term. I believe this additional revenue must be dedicated to helping our coal counties prepare for a future economy when the coal is gone.

As part of our economic development initiatives, I will also propose a restructuring of our economic Development Cabinet to establish a Governing Board that will for the first time set statewide goals and keep us on track to achieve them.

This board will assure the continuity of our economic development efforts and take the politics out.

I also intend to propose in my budget package an ambitious capital construction program of up to $100 million to revitalize our state parks and re-establish Kentucky as the home of the nation's finest park system.

And I want to make it clear that I intend for this money to be spent on Kentucky companies which employ Kentucky workers who will be paid the prevailing wage.

I will continue the efforts I began as Lt. Governor to improve the marketing of Kentucky agricultural products. Agriculture is still our number one competitive advantage in trade.

I intend to work closely with Agriculture Commissioner Ed Logsdon and our agricultural experts at the University of Kentucky on projects to expand and diversify our farm economy and to enhance our marketing efforts of Kentucky agricultural products worldwide.

We cannot, however, retain our competitive advantage in agriculture without a major commitment and a long-term investment in research. During my term, we will develop with U.K. a major new animal research center at Pin Oak farm.

There is another area of agriculture that is of special interest to me — the horse industry.

When I became Lt. Governor four years ago, I could find no documentation on just what the horse industry means to our state.

Since then, the University of Kentucky has conducted an economic impact study that concluded that the equine industry in Kentucky accounts for 79,820 jobs in our state.

I know that as members of this General Assembly you realize what 79,820 jobs mean to Kentucky. Can you imagine what we would do to encourage 79,000 jobs to come to our state? I believe we should commit ourselves to preserving and protecting this industry with the same zeal we would employ to attract such a prospect.

I will offer for your consideration during this session several proposals that will strengthen our thoroughbred industry.

I fully recognize that some may say I am interested in this area because of my involvement in the horse industry. To them I would say: any Governor who would not do everything in his power to save the jobs of 79,000 Kentuckians ought to be impeached.

I am going to do everything I can to preserve and protect those jobs while strengthening a Kentucky industry that is much more than a business. It is every much a part of our heritage and culture. And it will be part of our legacy.

We will — and should — be measured by that legacy. Speaking of legacies, there is nothing that will tell future generations more about us than the decisions we make in education.

Kentucky's education reform is an epic saga with thousands of heroes. There are none greater, however, than those of you in this chamber who two years ago had the collective courage to craft the boldest reform effort in this country and to find the revenue to fund its beginning stages.

We cannot allow that courage to leave us unattended now as we move ahead with the next stage of education reform. We cannot and we will not allow tight budgetary times to deter us from fulfilling the covenant that we have with the children of Kentucky. We must strive to maintain in the next fiscal year the essential elements of reform, even if it is at the expense of other worthy programs in government.

Then in the following year, we must act with vigor to advance education reform the next step.

Working together we can make education reform a reality. We can effect a social resolution in this state that will guarantee that a child's future is no longer determined by an accident of geography or economic circumstance.

The children of farmers and factory workers will have the very same opportunities as the children of the rich and privileged. All children will have open before them, as Ed Prichard said, "The path to a larger life."

To make education reform complete, we must also focus our attention on higher education. We must adopt the same principles in higher education that made our primary and secondary education reform effort the model for the nation.

I want to work with you and with the higher education community to devise specific goals for our colleges in instruction, research, and public service.

We need to agree on a system of assessing the progress of each institution toward those goals. And those colleges that succeed should ultimately be rewarded through our funding system.

Let there be no misunderstanding; I am not proposing a simplistic testing mechanism, but a thorough assessment of each part of a university's mission to determine progress toward their goals.

To be successful, our higher education system must be free of the taint of petty politics. I intend to propose in this session the creation of a nominating commission to select qualified nominees to be recommended to the Governor for appointment to university boards and the Council on Higher Education.

This process will remove political consideration from these very important decisions — and I believe it is a change that will have a very positive, lasting effect on higher education in Kentucky. Improvements do not always require more money. Now is the time to demand this action.

Because I believe it is so important, I am unwilling to wait for this change or to phase it in gradually. That is why as part of my package I will be asking you for the authority to reorganize immediately every board of trustees and board of regents in our state. Then every seat on every board will be subject to the non-political nominating process I have outlined.

With this reorganization in place, we will have eliminated almost immediately the influence of politics on our university boards. Then we can direct our attention to effecting meaningful change for the improvement of higher education.

All the spending we can muster on education reform, and all of our efforts in higher education, will ultimately be for naught unless all of our children have a fair start on life.

Fully one-fourth of our children are born into and live in poverty. Every day of their lives they know first-hand the pain and despair of poverty. Many of the parents of these children have known nothing but that same debilitating poverty throughout their own lives. For these children to have a fair start, we must not only help them but provide encouragement and assistance to their parents.

I am committed to our early childhood education program adopted as part of our historic reform package. I will also put my best efforts to work to see to it that sufficient funds are made available for our new family resource centers.

I am also committed to the parents of these children. We must give them a stake in society to enable them to pass along to their children the proper attitudes and values. That is why I will make every effort to avoid, even in next year's difficult budget, any cuts in our state and federal welfare reform programs. These programs are providing educational training and job opportunities and are concrete examples of my belief that government should help people to help themselves.

We must also recognize our responsibility to senior citizens. The newly formed association of older Kentuckians — AOK — will have the full support of this administration. And we will work during our four years to put programs in place that will help all Kentuckians lead vital, independent lives as they grow older.

Too many Kentuckians — especially women and children — awaken every day to lives that are darkened by the threat of violence in their own homes. We must act immediately on their behalf and our administration will lead the effort to strengthen our laws against domestic violence.

There is no area more clearly in need of government action than health care. We must begin now to reach a consensus for solving the long-term problems of providing affordable, quality care for all our citizens. While we must take care of immediate, acute care needs, our focus should be on improving the general health of our citizens over the long run. The humane approach is a coordinated primary preventive health care system linked with comprehensive school health education.

I anticipate a coordinated system that uses the best of private medicine and public health and integrates private competitive insurance with governmental support. It is imperative that we gain control of health care costs.

There are some things we can do today to more aggressively pursue our goals of improved care for our citizens. A recent report of the Cabinet for Human Resources — healthy Kentuckians 2000 — contains numerous recommendations to improve our health status.

I am directing the secretary for Human Resources to place major emphasis on the following goals:

To reduce the infant mortality rate;

To reduce the fetal death rate;

To reduce the maternal mortality rate;

To reduce low birth weight;

To reduce deaths from uterine and cervical cancer;

To promote the immunization of every child.

We will accomplish these goals by putting our major focus on preventive health care.

You know by now that I believe in consensus building to solve problems. I believe that this is the kind of process we need to find a way to make health care available and affordable to all our citizens. Looking for villains and pointing fingers at each other will not solve the problem. Bringing everyone to the table — consumers, providers, business, labor, government — talking it out and building consensus is the way to solve any problem.

Our administration will provide leadership to the consensus building process. We have a unique opportunity in Kentucky to show the nation what can be done to reform our health care system. Kentucky's population is small enough to allow us to plan efficiently and effectively. Our geographic area is small enough to ensure that people in one part of the state can communicate with people in the other parts.

I will appoint a special task force for comprehensive health care reform. This task force will be charged with developing reform recommendations this year because this issue requires action as soon as possible. I will then ask you to consider those recommendations in a special legislative session.

In the area of environmental protection, our mandate from the people is clear and compelling. We will enforce the law without fear and without favor. To all who will commit themselves to seeking solutions to our common problems. We extend an open invitation to join us in the search for new ideas that work.

With this invitation, we expect all parties to bring to the table only an open mind and a willingness to become part of the solution. To skeptics who argue that this new approach will not work, we submit a challenge: Judge us by our actions.

The recent resolution of the Lake Cumberland controversy teaches us that new solutions to environmental problems are not only possible, they are attainable.

We rejoice in the hope that this achievement inspires. And we pledge to be patient in the difficulties that will come as we seek to extend the boundaries of possibility into other areas of environmental conflict. We have a leadership in the Cabinet for Natural Resources and Environmental Protection that has the capacity and the commitment to set the standards for future generations.

This epic of conservation and stewardship is not an option or a luxury, it is a necessity. Our disposable society must change if our children and grandchildren are to have access to the clean air, land, and water necessary for life.

Disposable values like disposable bottles merely shift the costs of the cleanup effort to the next generation. And we will come before you in this session with our proposals — including a bottle bill — that will reflect our recognition that the time to act is now.

I have saved for last the discussion of an issue that is very important to me — governmental reform. Thirty-two years ago in his inaugural address, Gov. Bert Combs identified as one of his chief goals the "elevation of the moral and political tone of government".

His goal must be our goal as well. We must give back government to the people. We must re-establish our government as being dedicated to the high ideals of public service rather than the low down deals of petty politics.

We must take immediate action on campaign finance and election reform. I will propose this session a tough campaign finance bill that will lower the maximum campaign contribution to $100, and attempt to lower the total amount of money that is spent by providing for a system of public financing for gubernatorial and Lt. Governor elections. And we will propose that a runoff primary be instituted for those two offices.

I favor gubernatorial succession and will enthusiastically support a constitutional amendment on succession that will not apply to me as the sitting Governor. I will also support a constitutional amendment that would reduce the number of elected statewide offices to four: the Governor, Lt. Governor, Auditor of Public Accounts, and Attorney General. As I have said in the past, I favor granting to the Lt. Governor the duties of the current offices of Treasurer and Secretary of State.

I have already issued by executive order a code of ethics for executive branch officials. I will present a bill in this session to establish that code as a permanent part of state law.

And I believe we must reduce the number of elections we have in Kentucky — moving all of our elections to even numbered years.

I feel very strongly about each and every one of these reform measures. I believe they are necessary to restore the public's confidence in government and its elected and appointed officials.

Restoring the public's confidence must be our objective, and to do that we must leave for our successors a government that is more efficient and effective than the one we inherited.

Our administration will institute a comprehensive review of the structure, organization and function of government. I will ask Auditor Ben Chandler to assist in this effort to streamline government and make it responsive to the needs of Kentuckians.

As we enter our third century, we must demand more or ourselves and of each other. We must willingly embrace new ideas and make these marble halls echo with a new spirit. But I caution you, do not confuse compassion for another human being with approval of that person's actions. Do not confuse a desire to be fair and build a consensus with a lack of leadership.

The leadership from the Governors Office will be real — it will be fair — and it will be successful.

Together, we can create a progressive government, a caring society and a robust economy that will be the envy of the nation.

Thank you.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, January 14, 1992.

On the roll call the vote was yeas 74—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Gee, Geveden, Gray, Hancock, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lewis, Lile, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Richards, Richardson, Ridley, Riggs, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Todd, Turner, Walker, Wayne, Worthington, Zimmerman. Nays 1—Richardson.

The motion to adjourn was adopted.

TUESDAY, JANUARY 14, 1992

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Joe Adams, State Government Chaplin.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and Williams.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 13, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 243, by Representative Noe: AN ACT relating to teacher scholarships.

HB 244, by Representative Scorsone: AN ACT relating to requirements for college enrollment.

HB 245, by Representatives Nunn, Heleringer, J. Harper, Jensen, Zimmerman, Freibert, Williams, Lile, Gee, Farley, Walker, K. Harper, Toby and Northup: AN ACT relating to motor vehicle insurance.

HB 246, by Representatives Freibert, Williams, J. Harper, Jensen, Napier, Todd, Zimmerman, Noland, T. O. Smith, Lile, Gee, Farley, Heleringer, Nunn, Walker, Ford, K. Harper, Northup and Bryant: AN ACT relating to campaign finance.

HB 247, by Representatives Williams, Heleringer, J. Harper, Todd, Jensen, Gee, Farley, Keith, Walker, K. Harper, Toby and Bryant: AN ACT relating to public school choice within districts.

HB 248, by Representatives T. O. Smith, Heleringer, Todd, Napier, J. Harper, Jensen, Zimmerman, Freibert, Williams, K. Harper, Northup, Bryant, Lile, Gee, Nunn, Keith, Walker, Strong, Ford, Mullinix and Farley: AN ACT relating to meetings.

HB 249, by Representatives Williams, Freibert, Todd, J. Harper, Jensen, Farley, Heleringer, Walker, K. Harper and Toby: AN ACT relating to choice of public school programs.

HB 250, by Representatives Freibert, Walker, Todd, Napier, J. Harper, Jensen, Zimmerman, Williams, T. O. Smith, Lile, Gee, Farley, Heleringer, Nunn, Keith, Strong, Toby, Northup and Bryant: AN ACT relating to public officials.

HB 251, by Representatives Jensen, Zimmerman, J. Harper, Todd, Napier, Noland, Lile, T. O. Smith, Gee, Farley, Heleringer, Nunn, Walker, Freibert, Williams, K. Harper, Toby, Bryant, Keith, Strong, Ford and Mullinix: AN ACT relating to campaign contributions.

HB 252, by Representatives Heleringer, Todd, Napier, J. Harper, Jensen, Zimmerman, Freibert, Williams, Lile, Gee, Farley, Nunn, Keith, Walker, Ford, Mullinix, Northup and Bryant: AN ACT relating to purchasing.

HB 253, by Representatives Jensen, Zimmerman, J. Harper, Farley, K. Harper, Strong, Napier, Altman, Walker, Mullinix, Gee, Nunn, Keith and Northup: AN ACT relating to income taxes.

HB 254, by Representatives Williams, Freibert, J. Harper, Jensen, Zimmerman, Noland, T. O. Smith, Lile, Gee, Farley, Heleringer, Walker, Keith, Strong, K. Harper and Bryant: AN ACT proposing to amend the Constitution of Kentucky relative to the terms of members of the General Assembly.

HB 255, by Representative Lewis: AN ACT relating to corrections officers.

HB 256, by Representative Lewis: AN ACT relating to crimes and punishments.

HB 257, by Representative Lewis: AN ACT relating to interlocal cooperative agreements.

HJR 19, by Representatives Noe and Bowling: A JOINT RESOLUTION directing the Transportation Cabinet to study replacing the section of U. S. 421 between Harlan and Hyden.

HCR 20, by Representatives Farley, Keith, J. Harper, Gee, Lile, T. O. Smith, Heleringer, Nunn, Walker, Strong, Ford, Mullinix, K. Harper, Todd, Williams, Jensen, Northup and Bryant: A CONCURRENT RESOLUTION to create a Task Force to study the tax system of the Commonwealth of Kentucky.

HR 21, by Representative Arnold: A RESOLUTION adjourning the House in loving memory and honor of Parley Paul Richardson.

HCR 22, by Representatives Burch and Noe: A CONCURRENT RESOLUTION strongly urging the Kentucky Commissioner of Education to reimplement the Parenting and Family Life Skills Education Model Curriculum on a statewide basis.

HJR 23, by Representative Lewis: A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on Interstate 24 connecting Marshall and Livingston Counties for the late George Luther Draffen.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Business Organizations and Professions: **HB 237**

Cities: **HB 234**

Education: **HB 235**

Health and Welfare: **HB 240**

Judiciary: **HB 236, HB 241, HB 242**

State Government: **HB 239**

Tourism Development and Energy: **HB 238**

Report of Committees

The Clerk announced that the Committee on Committees has made the following assignments: Representative Geveden to Appropriations and Revenue, the Appropriations and Revenue Budget Review Subcommittee on Justice, Corrections and Judiciary, and removed from Tourism and Energy; Representative Scorsone to Chairman of the Appropriations and Revenue Budget Review Subcommittee on Justice, Corrections and Judiciary; Representative Adkins to Chairman of Tourism Subcommittee of the Tourism Development and Energy; and Representative Lewis to Education.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 95, HB 116, HB 117, HB 120, HB 121, HB 122, HB 160, HCR 9.**

Business Organizations and Professions: **HB 136**

Judiciary: **HB 20, HB 109, HB 123, HB 129, HB 130, HB 132**

Education: **HB 190, HB 196, HB 223, HB 224, HB 225, HB 226**

State Government: **HB 16, HB 106, HB 113, HB 147, HB 194, HB 157**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 61, HB 146, HB 148, HB 154** and **HB 167** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.070 is amended to read as follows:

(1) A person is guilty of harassment when with intent to harass, annoy or alarm another person he:

(a) Strikes, shoves, kicks or otherwise subjects him to physical contact or attempts or threatens to do the same; or

(b) In a public place, makes an offensively coarse utterance, gesture or display, or addresses abusive language to any person present ***in such manner that the word or gesture has a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed***; or

(c) Follows a person in or about a public place or places; or

(d) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(2) Harassment is a violation.

HB 146, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 610.340 is amended to read as follows:

(1) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child or parent unless ordered by the court for good cause.

(2) The provisions of this section shall not apply to public officers or employees engaged in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the prosecution of the case.

(3) The provisions of this section shall not apply to employees of the cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the representation of the client in the case.

(4) ***The provisions of this section shall not apply to the disclosure to the parents or guardian of a child who is sexually abused by another child, the name and address of the child alleged to have committed the abuse and the disposition of the case against the alleged abuser, including but not limited to, any treatment or punishment ordered.***

(5) No person shall disclose any record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.

(6)[~~(5)~~] No person authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

(7)[~~(6)~~] No person not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.

(8)[~~(7)~~] No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.

(9)[~~(8)~~] As used in this section the term "KRS Chapters 600 to 645," includes any regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

HB 148, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 519.060 is amended to read as follows:

(1) A person is guilty of tampering with public records when:

(a) He knowingly makes a false entry in or falsely alters any public record; or

(b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise impairs the availability of any public records; or

(c) Knowing he lacks the authority to retain it, he ***intentionally*** refuses to deliver up a public record in his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes.

(2) Tampering with public records is a ***Class D felony*** [~~Class A misdemeanor~~].

HB 154, AN ACT relating to guardians and conservators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.070 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no guardian or conservator shall act until the guardian or conservator has been appointed by the proper District Court, and given bond to the Commonwealth of Kentucky with good surety, either corporate or personal, approved by the District Court to faithfully discharge the trust of guardian or conservator. The bond shall be carefully kept by the clerk of the District Court in a book to be provided for that purpose.

(2) A limited guardian shall be exempt from the requirements of subsection (1) of this section.

(3) If the person or entity appointed by the District Court as guardian or conservator is a person or entity nominated pursuant to KRS 387.040, and the will of the parent making the nomination requests no surety on the bond of the guardian or conservator, no surety shall be required on the bond, unless the District Court deems it imprudent to dispense with surety because of a change of circumstances since the will was made or for other good cause.

(4) No master or other commissioner whose duty it is to settle the accounts of a guardian or conservator, nor judge or clerk of a court, or practicing attorney, shall be accepted as surety on the bond of a guardian or conservator.

[~~(5) If the District Court fails to take a bond, or accepts inadequate surety on the bond, or fails to require the guardian or conservator to maintain adequate surety on the bond, the judge in default and the judge's sureties shall be jointly and severally liable to the ward for any damage the ward may sustain thereby, including reasonable attorney's fees and costs incurred in collecting damages.~~]

HB 167, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint private counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. The fee to be fixed by the court shall not exceed ***six*** [~~five~~] hundred ***fifty*** dollars ***($650)*** [~~($500)~~] provided, however, if the action has final disposition in the District Court, the fee shall not exceed ***four*** [~~two~~] hundred [~~fifty~~] dollars ***($400)*** [~~($250)~~];

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed ***six*** [~~five~~] hundred ***fifty*** dollars ***($650)*** [~~($500)~~] provided, however, if the action has final disposition in the District Court, the fee shall not exceed ***four*** [~~two~~] hundred [~~fifty~~] dollars ***($400)*** [~~($250)~~]; and

(c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if such person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. Counsel for such person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed ***six*** [~~five~~] hundred ***fifty*** dollars ***($650)*** [~~($500)~~] provided, however, if the action has final disposition in the District Court, the fee shall not exceed ***four*** [~~two~~] hundred [~~fifty~~] dollars ***($400)*** [~~($250)~~].

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Senate Message

Announcing passage of **SB 15** and **SB 51**. (Time: 2:10 p.m.)

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Orders of the Day

HB 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 11** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 14, 1992 roll call on **HB 11** - Appendix.)

HB 11 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 11** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 1** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 14, 1992 roll call on **HB1** - Appendix.)

HB 1 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 1** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 8** be passed.

On the roll call the vote was: Yeas 93, Nays 3. (See January 14, 1992 roll call on **HB 8** - Appendix.)

HB 8 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 215** be reassigned to Labor and Industry. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 95**, **HB 116**, **HB 117**, **HB 121**, **HB 120**, **HB 122**, **HB 160** and **HCR 9**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 258, by Representative Long: AN ACT relating to state capital construction and equipment.

HB 259, by Representative Coleman: AN ACT relating to statutory liens.

HB 260, by Representative Wayne: AN ACT relating to leave of absence for a teacher or superintendent.

HB 261, by Representatives Cyrus, Donnermeyer, Maggard, Bentley, Collins, Yates and L. Clark: AN ACT relating to hunting and fishing licenses.

HB 262, by Representatives Cyrus and Gee: AN ACT relating to wild rivers.

HB 263, by Representatives Morris, Bruce and Bentley: AN ACT relating to the Vietnam veterans' bonus and making an appropriation therefor.

HB 264, by Representative Little: AN ACT relating to hazardous duty retirement.

HB 265, by Representatives Callahan, Sheehan and Donnermeyer: AN ACT relating to microbreweries.

HCR 24, by Representative Ward: A CONCURRENT RESOLUTION honoring Target Stores, a division of the Dayton Hudson Corporation.

HJR 25, by Representatives Little, Hancock, Pritchett, Northup and Yates: A JOINT RESOLUTION extending the Task Force to Study Transportation Needs.

Motions, Petitions and Communications (Continued)

Representative Maggard moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Maggard moved the adoption of the following Legislative Citation No. 1. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors gifted and talented students: Josh Sewell, Jennifer McIntosh, Sam Burnside, Roy Lowdenback, Leann Sebastion, Johnathon Sherburne, Andrea Gross, Seth Gabbard, Derrick Whitaker, Denny King, Dorothy Noble, Elizabeth Sherburne, Todd Burnside, Amber Sewell, Roy McClees, Jeremy Lindon, Stephanie Mullins, Daniel Sewell, Tiffany Stewart, Heather Couch, Rachel Hudgins, Greg Hudgins, Jered Dale Little, Kendra Noble, Travis Roberts, P.J. Sheffel, Kim McKnight, Jennifer Hamilton, Laura Tzanetoes, A.J. Hudson, Jason Ritchie, Amanda Lowdenback, Jessica Bowling, Rebecca Brown, Kelly Back, Shanda Stidham, Eric Lindon for the tenacity and dedication to academic achievement that you have exhibited by using your exceptional abilities to excel. Whereas, educational achievement, academic ability and the wisdom to apply those gifts measure an individuals overall capability to succeed and this prestigious body recognizes your exceptional efforts and encourages a continued move toward high goals.

Representative Arnold moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION adjourning the House in loving memory and honor of Parley Paul Richardson.

With deepest respect, we pay homage and tribute to Parley Paul Richardson.

WHEREAS, January 6, 1992 was a dark day for Bath County, when a robber took the life of Parley Paul Richardson while attempting to holdup his IGA Foodliner grocery store; and

WHEREAS, Parley Paul Richardson, who was sixty-four, died while successfully defending his family, friends, and property; and

WHEREAS, Parley Paul Richardson was a leader in his community and the son of the late L.E. and Gladys Ponder Richardson; and

WHEREAS, Parley Paul Richardson was born in Bath County, and was past president of the Owingsville Lions Club, Owingsville Chamber of Commerce, and named "Business Leader of the Year" by that organization; and

WHEREAS, as an active civic and business leader, Parley Paul Richardson worked toward the preservation of economic well-being for local merchants, and was president of the Bath County Industrial Foundation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body does hereby express its profound grief at the loss of Parley Paul Richardson and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day it does so in loving memory and honor of Parley Paul Richardson.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Edith Howard Richardson, Richardson Funeral Home, Box 68, Owingsville, Kentucky 40360.

HR 21 was adopted by voice vote.

Representative Mason moved that **HB 36** be withdrawn. Agreed.

Representative Ridley moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ridley moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 6, HB 14, HB 24, HB 26, HB 29, HB 37, HB 38, HB 49, HB 52, HB 63, HB 71, HB 74, HB 104, HB 111, HB 119, HB 124, HB 130, HB 140, HB 147, HB 156, HB 157, HB 184, HB 194, HB 198, Representative Donnermeyer; **HB 40**, Representative Lemaster; **HB 68**, Representative Todd; **HB 88**, Representative Lile; **HB 9**, Representative Butler; **HB 113**, Representative Gee; **HB 140**, Representative Lear.

Announcements

The following meetings were announced:

Labor and Industry, 12 Noon, Room 131, January 15, 1992.

Counties and Special Districts, 8:30 a.m., January 15, 1992.

Education, 10:00 a.m., January 15, 1992.

The following meeting was cancelled:

Economic Development, January 15, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 15, 1992.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Wayne, Ward, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 15, 1992

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Invocation by Mike Hawkins, Center College.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 14, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 266, by Representative Noe: AN ACT relating to school employment contracts.

HB 267, by Representatives Morris, Bruce, and Bentley: AN ACT relating to state government.

HB 268, by Representative Noe: AN ACT relating to school principals.

HCR 26, by Representatives Gedling, Crupper, Bruce and Morris: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 259**

Appropriations and Revenue: **HB 253, HCR 20**

Banking and Insurance: **HB 245**

Business Organizations and Professions: **HB 265**

Cities: **HB 257**

Education: **HB 243, HB 247, HB 249, HB 244, HCR 22, HB 260, SB 15, SB 51**

Elections and Constitutional Amendments: **HB 246, HB 251, HB 254**

Judiciary: **HB 256**

Natural Resources and Environmental Protection: **HB 264**

State Government: **HB 250, HB 248, HB 252, HB 255, HB 258, HB 263**

Tourism Development and Energy: **HB 262, HB 261**

Transportation: **HJR 19, HJR 23, HJR 25**

Report of Committees

The Committee on Counties and Special Districts reported **HB 15** with Committee Substitute attached thereto, **HB 17, HB 19, HB 82** and **HB 134** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.060 is amended to read as follows:

(1) Sheriffs, constables, coroners, marshals and policemen shall be paid out of the State Treasury for the following services the following fees:

(a) Apprehending a person on charge of felony, or a fugitive from justice charged with a felony in this state . . . . ***($10.00)***[~~$3.00~~]***;***

(b) Executing a process of contempt in a criminal case when the court excuses the contempt 1.60***;***

(c) Executing a summons upon a witness in behalf of the Commonwealth in a felony case . . . . ***(3.00)***[~~.75~~]***;***

(d) Summoning a jury, on order of a court, in a county other than that in which the action is pending, a reasonable allowance to be fixed by the court***;***[~~.~~]

(e) Summoning and attending a jury in a case of felony 2.50***;***

(f) Serving a domestic violence emergency protective order . . . . 3.00; and

(g) Serving a civil summons in a nonsupport case . . . . 10.00.

(2) ***Except when required by subsection (1)(f) of this section,*** no claim for services incidental to examining courts shall be allowed to any sheriff, deputy sheriff, constable, marshal, policeman or other officer authorized to execute process in felony cases until the grand jury has returned an indictment for a felony.

The Committee Substitute to **HB 15** is as follows:

HB 15, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.060 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** sheriffs, constables, coroners, marshals and policemen shall be paid out of the State Treasury for the following services the following fees:

(a) Apprehending a person on charge of felony, or a fugitive from justice charged with a felony in this state $3.00

(b) Executing a process of contempt in a criminal case when the court excuses the contempt 1.60

(c) Executing a summons upon a witness in behalf of the Commonwealth in a felony case 75

(d) Summoning a jury, on order of a court, in a county other than that in which the action is pending, a reasonable allowance to be fixed by the court.

(e) Summoning and attending a jury in a case of felony 2.50

(2) ***A sheriff shall, if he requests and receives approval from the fiscal court of his county, be paid out of the State Treasury for the following services the following fees:***

(a) Apprehending a person on charge of felony, or a fugitive from justice charged with a felony in this state $10.00

(b) Executing a summons upon a witness in behalf of the Commonwealth in a felony case 3.00

(c) Serving a domestic violence emergency protective order 3.00

(d) Serving a civil summons in a nonsupport case 10.00

(3) Except when required by subsection (2)(c) of this section, no claim for services incidental to examining courts shall be allowed to any sheriff, deputy sheriff, constable, marshal, policeman, or other officer authorized to execute process in felony cases until the grand jury has returned an indictment for a felony.

HB 17, AN ACT relating to water service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

(1) Any city that owns or operates a water supply or sanitary sewer system may extend the system into, and furnish and sell water and provide sanitary sewers to any person within, any territory contiguous to the city, and may install within that territory necessary apparatus; provided, however, that the extension of a water supply or sanitary sewer system shall not enter into any territory served by an existing water supply or sanitary sewer district unless such district requests the extension of water or sewer services from a city. For these purposes the city or sanitation authority established by an interlocal agreement may condemn or otherwise acquire franchises, rights and rights of way, as private corporations may do.

(2) When extending the system to any person, water district, or water association, the city shall consider the installation of fire hydrants on the extended lines. The city may extend water lines which are incapable of servicing fire hydrants only if the city determines that servicing hydrants is not feasible. The determination shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduction in fire insurance premiums which may result from the installation of hydrants at specified intervals. When extending lines to a water district or water association, the determination shall be made in consultation with the district or association, taking into consideration their fiscal capacity.

Section 2. KRS 74.415 is amended to read as follows:

(1) The commissioners of a water district***, or the governing body of a water association referred to in KRS 74.012(1),*** in order to provide adequate means of fire protection, ***shall consider the installation of fire hydrants on*** [~~may require minimum fire hydrant spacing for~~] new or extended water lines within their area. ***They shall investigate the availability of supplementary funding to pay the incremental costs of line sizing and hydrant installation. The commissioners or governing body shall not eliminate fire hydrants from new or extended water lines unless they determine that hydrants are not feasible. Their analysis shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduced fire insurance premiums which may result from the installation of hydrants at specified intervals.***

(2) If a private real estate subdivision developer has not included adequately sized pipe and fire hydrants in his development plan, the commissioners of a water district or the governing body of a water association which has the capacity to supply adequate water for fire hydrants shall require, at the time the developer applies for permission to hook into the district's water lines, an analysis by the developer of the incremental cost of hydrants and piping adequately sized for hydrants, the effect of hydrants on the cost and availability of fire protection insurance, and conclusions as to why the installation of hydrants is not feasible.

HB 19, AN ACT relating to public notice by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, ***or sheriff or county clerk,*** may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than ten thousand dollars ($10,000) without first making newspaper advertisement for bids. [~~Provided, however, that~~] This requirement shall not apply in an emergency if the chief executive officer of ***the*** [~~such~~] city, county, or district has duly certified that an emergency exists, and has filed a copy of ***the*** [~~such~~] certificate with the chief financial officer of ***the*** [~~such~~] city, county, or district***, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530.***

HB 82, AN ACT relating to the county judge/executive.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.715 is amended to read as follows:

(1) The county judge/executive may create, abolish, or combine any county department or agency or transfer a function from one department or agency to another, provided that he shall first submit plans for such reorganization to the fiscal court. If not disapproved within sixty (60) days, the plans shall become effective.

(2) The county judge/executive or county judges/executive of multicounty districts may, with approval of the fiscal court or fiscal courts, create[;] any special district or abolish or combine any special district, provided ***the*** [~~such~~] district was created solely by ***the county judge/executive or county judges/executive or solely by*** one or more such fiscal courts.

(3) The county judge/executive shall assure the representation of the county on all boards, commissions, special districts, and multicounty programs in which county participation is called for.

HB 134, AN ACT relating to flood control, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The flood project planning fund is hereby created and shall be attached to the Flood Control Advisory Commission for administrative purposes. The fund shall be used to assist small, rural communities in providing some, or all, of the nonfederal share of flood control feasibility planning projects conducted by the U.S. Army Corps of Engineers.

Section 2. There is appropriated fifty thousand dollars ($50,000) for each year of the biennium.

Section 3. Whereas time is of the essence due to impending changes to the state/federal share of flood control project costs, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Education reported **HB 149** with Committee Substitute, Committee Amendment and Committee Title Amendment attached thereto, and **HB 181** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 149, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Higher Education shall establish [~~such~~] advisory groups [~~as may be~~] necessary to satisfy federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors [~~as~~] the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and

refinement of [~~such~~] formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet ***or the*** [~~and/or~~] State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in this section, KRS 164.010, 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and [~~such~~] staff [~~as may be~~] needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of higher learning. ***The*** [~~Such~~] responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Monitor and report on compliance with KRS 164.351. The report shall be transmitted to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee.

(14) Develop in cooperation with each state institution of higher education a comprehensive orientation program for newly appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly appointed trustees and regents for each institution with its faculty, students, administrators, and other board members.

Section 2. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of sixteen (16) competent citizens of Kentucky ***or out of state alumni of the institution*** appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments except that the appointments shall be for terms of six (6) years.

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 3. KRS 164.320 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each be governed by a board of regents appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. Each board shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. When a term expires after July 13, 1990, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor fails to make the appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make the appointment within sixty (60) days after the expiration of the term.

(3) ***The gubernatorial appointments may include out of state alumni of the respective institution.*** Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 4. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) competent citizens of Kentucky ***or out of state alumni of the institution*** appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) After July 13, 1990, at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of six (6) years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Governor's Higher Education Selection Committee which shall consist of nine (9) members. Seven (7) members representing each of the Supreme Court districts shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes. One (1) member shall be a faculty member at a public institution of higher education. The faculty member shall be selected by the Council on Higher Education Faculty Advisory Committee, but shall not be a member of a higher education governing board. One (1) member shall be a student at a public institution of higher education. The student member shall be selected by the Council on Higher Education Student Advisory Committee, but shall not be a member of a higher education governing board.

(2) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

(a) Advisory Conference of Presidents;

(b) Council on Higher Education Student Advisory Council;

(c) Associations representing faculty from universities and community colleges;

(d) Associations representing university and community college alumni;

(e) Higher education advocacy groups;

(f) The State Board for Elementary and Secondary Education; and

(g) Associations representing business and civil interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms, except the initial appointments shall be as follows:

1. One (1) member shall serve a three (3) year term;

2. Two (2) members shall serve a four (4) year term;

3. Two (2) members shall serve a five (5) year term; and

4. Two (2) members shall serve a six (6) year term.

(b) The faculty and student members shall serve a one (1) year term.

(c) The terms of the original appointees shall expire on June 30 in the year designated, and the terms of each member appointed thereafter shall begin on July 1. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) Beginning January 1, 1993, the committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.130, 164.320, and 164.820 and to the Council on Higher Education, except the student member, pursuant to KRS 164.010. The committee shall not make recommendations for alumni appointments made pursuant to KRS 164.820. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

The Committee Substitute to **HB 149** is as follows:

HB 149, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Higher Education shall establish [~~such~~] advisory groups [~~as may be~~] necessary to satisfy federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors [~~as~~] the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of [~~such~~] formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet ***or the*** [~~and/or~~] State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in this section, ***Section 9 of this Act*** [~~KRS 164.010~~], 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a chairman annually from the voting membership and appoint an executive director and [~~such~~] staff [~~as may be~~] needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of higher learning. ***The*** [~~Such~~] responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Monitor and report on compliance with KRS 164.351. The report shall be transmitted to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee.

(14) Develop in cooperation with each state institution of higher education a comprehensive orientation program for newly-appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses. The orientation program shall also include meetings of the newly

appointed trustees and regents for each institution with its faculty, students, administrators, and other board members.

Section 2. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of sixteen (16) competent citizens of Kentucky ***or out-of-state alumni of the institution*** appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments except that the appointments shall be for terms of six (6) years.

(2) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

Section 3. KRS 164.320 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each be governed by a board of regents appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. Each board shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. When a term expires after July 13, 1990, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. The appointments shall be made by the Governor within thirty (30) days after the expiration of the term of each member. If the Governor fails to make the appointment within thirty (30) days after the expiration of the term of any member, the remaining members

of the board of regents of the particular university or college whose terms shall not have expired, shall make the appointment within sixty (60) days after the expiration of the term.

(3) ***The gubernatorial appointments may include out-of-state alumni of the respective institution.*** Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 4. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) competent citizens of Kentucky ***or out-of-state alumni of the institution*** appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year. The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the Governor according to the following schedule:

(a) Two (2) for one (1) year terms;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms;

(d) Eight (8) for four (4) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under subsection (2)(b) of this section.

(3) After July 13, 1990, at the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the Governor for terms of six (6) years each, and in making such appointments the Governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements, the Governor shall make his appointments from the state at large so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the Commonwealth, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Governor's Higher Education Selection Committee which shall consist of nine (9) members. Seven (7) members representing each of the Supreme Court districts shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes. One (1) member shall be a faculty member at a public institution of higher education. The faculty member shall be selected by the Council on Higher Education Faculty Advisory Committee, but shall not be a member of a higher education governing board. One (1) member shall be a student at a public institution of higher education. The student member shall be selected by the Council on Higher Education Student Advisory Committee, but shall not be a member of a higher education governing board.

(2) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

(a) Advisory Conference of Presidents;

(b) Council on Higher Education Student Advisory Committee;

(c) Associations representing faculty from universities and community colleges;

(d) Associations representing university and community college alumni;

(e) Higher education advocacy groups;

(f) The State Board for Elementary and Secondary Education; and

(g) Associations representing business and civil interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;

2. Two (2) members shall serve a four (4) year term; and

3. Three (3) members shall serve a six (6) year term.

(b) The faculty and student members shall serve a one (1) year term.

(c) The terms of the original appointees shall expire on April 14 in the year designated, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the 1992 Senate and House of Representatives for confirmation as soon as practicable following the effective date

of this Act. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to Sections 6, 7, and 8 of this Act and to the Council on Higher Education pursuant to Section 9 of this Act, except the student member. The committee shall not make recommendations for alumni appointments made pursuant to Section 8. Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within thirty (30) days following receipt of the nominations.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;

2. Two (2) members shall serve two (2) year terms;

3. Three (3) members shall serve three (3) year terms;

4. Three (3) members shall serve four (4) year terms;

5. Three (3) members shall serve five (5) year terms; and

6. Three (3) members shall serve six (6) year terms.

(b) The gubernatorial appointments may include alumni of the institution who reside outside the Commonwealth. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to divide the representation on the board as equally as possible between the two (2) leading political parties of the Commonwealth and to reflect a proportional representation of the racial composition in the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, and Northern Kentucky University shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. Each board shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairman annually.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) One (1) member shall serve a three (3) year term;

(d) One (1) member shall serve a four (4) year term;

(e) Two (2) members shall serve five (5) year terms; and

(f) Two (2) members shall serve six (6) year terms.

(3) The gubernatorial appointments may include out-of-state alumni of the respective institution. Not more than two (2) appointed members of any board shall be residents of one (1) county; nor shall more than four (4) of the appointed members of any board belong to the same political party. Membership on the board shall reflect a proportional representation of the racial composition in the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(7) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairman of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be an alumnus or alumna of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board as nearly equal as possible between the two (2) leading political parties in the Commonwealth. The gubernatorial appointments may include alumni of the institution who reside outside the Commonwealth and shall reflect a proportional representation of the racial composition in the Commonwealth.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a Council on Higher Education in Kentucky, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the chief state school officer, and seventeen (17) lay members appointed by the Governor: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member.

(2) The student member shall be enrolled as a full-time student at a state public institution of higher education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four-year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves, shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The gubernatorial appointments may include alumni of Kentucky public institutions of higher education who reside outside the Commonwealth and shall reflect a proportional representation of the racial composition in the Commonwealth. The lay members shall constitute the voting membership of the council.

(4) After the initial appointments, the lay members shall be appointed for regular terms of six (6) years, except for the student member who shall serve a one (1) year term. The initial appointments shall be as follows:

(a) Two (2) members shall serve one (1) year terms, one of which shall be the student member;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

f. Three (3) members shall serve six (6) year terms.

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity.

Section 10. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, ***the board of trustees of the University of Louisville,*** members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, and Murray State University, and members of the State Board for Elementary and Secondary Education ***and the Council on Higher Education*** shall not be removed except for cause.

Section 11. KRS 164.150 is amended to read as follows:

No member of ***a governing board of a public institution of higher education*** [~~the board of trustees~~] shall be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 12. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in ***Section 6 of this Act*** [~~KRS 164.130~~] for members of the board of trustees of the University of Kentucky, in ***Section 8 of this Act*** [~~KRS 164.820~~] for members of the board of trustees of the University of Louisville, and in ***Section 7 of this Act*** [~~KRS 164.320~~] for members of the board of regents of other Kentucky universities and state colleges, no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any state supported college or university.

Section 13. KRS 164.290 is amended to read as follows:

(1) The state colleges formerly designated as Eastern Kentucky State College, Morehead State College, Murray State College, Western Kentucky State College, Northern Kentucky State College, and Kentucky State College may be known and recognized as Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Northern Kentucky University, and Kentucky State University.

(2) Kentucky State University located at Frankfort, Kentucky, is a land-grant state institution and, as such, all the provisions of KRS Chapter 164[~~, with the exception of the provisions of KRS 164.320 concerning the appointment of the initial board of regents, applying to the other five (5) regional universities~~] shall likewise apply to Kentucky State University. It is the intent of the General Assembly that Kentucky State University shall serve as a four-year residential institution emphasizing a program of liberal studies appropriate to its size and resources.

Section 14. KRS 164.540 is amended to read as follows:

(1) The Council on Higher Education in Kentucky as defined in ***Section 9 of this Act*** [~~KRS 164.010~~] is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop or maintain in any manner any educational institution within its borders to which negroes will not be admitted on an equal basis with other races, nor shall any negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races.

Section 15. The following KRS sections are repealed:

164.010 Council on Higher Education — Membership — Terms.

164.130 Board of trustees.

164.320 Membership of boards of regents.

164.820 Board of trustees.

Section 16. Effective July 1, 1992, all university governing boards established pursuant to KRS 164.130, 164.320, and 164.820 and the Council on Higher Education established pursuant to KRS 164.010 shall be abolished and the terms of members serving on the boards and the council on June 30, 1992 shall be terminated. All appointments to boards and the council established pursuant to Sections 6, 7, 8 and 9 of this Act shall be made in accordance to the procedure established in Section 5 of this Act.

Section 17. Whereas it is critical that Kentucky higher education be guided by strong, well-qualified leadership, an emergency is declared to exist and all of Section 1 except subsection (8) and Sections 2, 3, 4, 5, 11, and 16 of this Act shall become effective upon its passage and approval by the Governor and subsection (8) of Section 1 and Sections 6, 7, 8, 9, 10, 12, 13, 14, and 15, shall become effective on July 1, 1992.

The Committee Amendment No. 1 to the Committee Substitute to **HB 149** is as follows:

Amend printed copy of **HB 149/HCS** on page 19, line 23 after the word "***Commonwealth***" and before the "." insert "***and to reflect a proportional representation of the racial composition in the Commonwealth***";

On page 22, line 23 after the word "***party.***" insert "***Membership on the board shall reflect a proportional representation of the racial composition in the Commonwealth.***";

On page 26, line 6 after the word "***Commonwealth***" and before the "." insert "***and shall reflect a proportional representation of the racial composition in the Commonwealth***"; and

On page 27, line 17 after the word "***Commonwealth***" and before the "." insert "***and shall reflect a proportional representation of the racial composition in the Commonwealth***".

The Committee Title Amendment to the Committee Substitute to **HB 149** is as follows:

Amend printed copy of **HB 149/HCS** by amending the title to read as follows: "AN ACT relating to higher education and declaring an emergency."

HB 181, AN ACT relating to education and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, any member of the Kentucky National Guard shall qualify for full tuition credit for full- or part-time study at any state-supported university, community college, or state-supported vocational training institution if:

(a) The member has completed initial active duty training and is in good standing as an active member of the Kentucky National Guard;

(b) The member does not, at the time of matriculation, hold a baccalaureate or higher degree;

(c) The member has been accepted to pursue a course of vocational or undergraduate college study and is enrolled as a vocational or undergraduate college student in good standing at that institution;

(d) The member enrolls in a timely fashion in accordance with the policy of the institution;

(e) The member commits himself to service in the Kentucky National Guard for at least one (1) year beyond the end of the term for which benefits are received;

(f) For a member whose civilian employer has a tuition assistance program, the member provides proof each semester that he has applied to his civilian employer for tuition assistance and been denied assistance comparable to that provided for in this section. In these instances, the member shall be eligible for tuition credit equal to the difference between that provided by the civilian employer and that for which the member would be otherwise eligible under this section; and

(g) The member has otherwise been certified as eligible for the tuition credit by the Department of Military Affairs in accordance with procedures established pursuant to subsection (5) of this section.

(2) If the member, once admitted as a student under this section, fails to complete a course in which he is enrolled or completes the course and earns a grade lower than a two point zero (2.0) on a four point zero (4.0) scale, the member shall be assessed by the institution the amount of the tuition credit extended for the particular course by this section, and the adjutant general of the Commonwealth shall assist the institution in recovering the full amount due under this subsection.

(3) Nothing in this section shall preclude the right of individual institutions to exercise established policy with respect to certificate or degree programs to be offered, courses to be offered, scheduling of courses, cancelling of courses, the establishment of additional sections of scheduled courses, or any other policy that applies to the general student population of the institution.

(4) If a person admitted to a state-supported university, community college, or state-supported vocational training institution under the provisions of this section obtains a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

(5) The Department of Military Affairs shall, in cooperation with the Council on Higher Education and the Workforce Development Cabinet, promulgate any administrative regulations necessary to implement the provisions of this section.

Section 2. The following KRS section is repealed:

38.500 Educational encouragement fund.

Section 3. To carry out the purposes of this Act, there is appropriated to the Council on Higher Education and the Workforce Development Cabinet $186,165 for fiscal year 1992-93 and $116,130 for fiscal year 1993-94. Any funds previously appropriated to the Department of Military Affairs for the educational encouragement fund shall be transferred to the Council on Higher Education and the Workforce Development Cabinet for the purposes of this Act.

The Committee Amendment No. 1 to **HB 181** is as follows:

Amend printed copy of **HB 181** on page 3, line 26, by deleting "$186,165" and inserting "$110,600" in lieu thereof; and

On page 4, line 1, by deleting "$116,130" and inserting "$110,600" in lieu thereof.

The Committee on Labor and Industry reported **HB 111** with Committee Substitute attached thereto, and **HCR 10** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 111, AN ACT relating to occupational safety and health of employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 338.141 is amended to read as follows:

(1) If upon inspection an authorized representative of the commissioner finds that an employer has violated any requirement of this chapter, a citation shall be issued to the employer. Each citation shall describe the alleged violation, establish the time period permitted for correction by fixing a reasonable date by which the alleged violation shall be eliminated, and propose the civil penalty to be paid.

(2) The proposed civil penalty shall be based on:

(a) The gravity of the violation;

(b) The size of the employer as determined by the number of his employees;

(c) The employer's past efforts to implement an effective workplace safety and health program; and

(d) The employer's history of violations.

(3) If within fifteen (15) working days from the receipt of the citation, an employer, employee, or representative of the employees fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed a final order of the review commission and ***shall*** not be subject to review by any court or agency.

(4)[~~(2)~~] The commissioner, upon determination that an employer is acting in good faith to correct the cited violation, may grant additional time for compliance upon application by the employer.

(5)[~~(3)~~] If an employer, employee, or representative of the employees notifies the commissioner that he intends to challenge a citation issued under this section or under KRS 338.131, the commissioner shall notify the review commission of such notification and the review commission shall afford an opportunity for a hearing.

(6)[~~(4)~~] In the case of any review proceedings initiated by an employer, employee, or representative of the employees under this chapter, the time period permitted for correction of cited violations may be extended by the review commission.

(7) The commissioner may promulgate administrative regulations necessary to carry out the provisions of this section.

Section 2. KRS 338.991 is amended to read as follows:

(1) Any employer who willfully or repeatedly violates the ***requirements*** [~~requirement~~] of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, ***shall*** [~~may~~] be assessed a civil penalty of ***not more than seventy*** [~~up to ten~~] thousand dollars ***($70,000) for each violation, but not less than five thousand dollars ($5,000)*** [~~($10,000)~~] for each ***willful*** violation.

(2) Any employer who has received a citation for a serious violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, shall be assessed a civil penalty of ***not more than seven*** [~~up to one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each violation.

(3) Any employer who has received a citation for a violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature, ***shall*** [~~may~~] be assessed a civil penalty of ***not more than seven*** [~~up to one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction ***shall*** [~~may~~] be assessed a civil penalty of ***not more than seven*** [~~up to one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each day during which such failure or violation continues.

(5) Any employer found to be in violation of [~~subsection (3) of~~] KRS 338.121***(3)*** shall be assessed a civil penalty of ***not more than*** [~~up to~~] ten thousand dollars ($10,000) for each violation.

(6) The review commission shall have the authority to modify all civil penalties and fines provided for in this chapter. The review commission may, at its discretion, suspend the time period allotted for correction of a violation during the review of an appeal from the violation in question.

(7) All civil penalties and fines collected under the provision of this chapter shall be paid into the general fund.

(8) Any employer or individual who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six (6) months, or by both.

(9) Any person who gives advance notice of any investigation or inspection to be conducted under this chapter, without authority from the commissioner, shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than six (6) months, or by both.

(10) Any employer or individual who willfully causes bodily harm to any authorized representative of the commissioner while attempting to conduct an investigation or inspection under the provisions of this chapter, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than one (1) year, or by both.

(11) As used in this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

The Committee Substitute to **HB 111** is as follows:

HB 111, AN ACT relating to occupational safety and health of employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 338.991 is amended to read as follows:

(1) Any employer who willfully or repeatedly violates the requirement of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, may be assessed a civil penalty of up to ***seventy*** [~~ten~~] thousand dollars ***($70,000) for each violation, but not less than five thousand dollars ($5,000)*** [~~($10,000)~~] for each ***willful*** violation.

(2) Any employer who has received a citation for a serious violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, shall be assessed a civil penalty of up to ***seven*** [~~one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each violation.

(3) Any employer who has received a citation for a violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ***seven*** [~~one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction may be assessed a civil penalty of up to ***seven*** [~~one~~] thousand dollars ***($7,000)*** [~~($1,000)~~] for each day during which such failure or violation continues.

(5) Any employer found to be in violation of subsection (3) of KRS 338.121 shall be assessed a civil penalty of up to ten thousand dollars ($10,000) for each violation.

(6) The review commission shall have the authority to modify all civil penalties and fines provided for in this chapter. The review commission may, at its discretion, suspend the time period allotted for correction of a violation during the review of an appeal from the violation in question.

(7) All civil penalties and fines collected under the provision of this chapter shall be paid into the general fund.

(8) Any employer or individual who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six (6) months, or by both.

(9) Any person who gives advance notice of any investigation or inspection to be conducted under this chapter, without authority from the commissioner, shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than six (6) months, or by both.

(10) Any employer or individual who willfully causes bodily harm to any authorized representative of the commissioner while attempting to conduct an investigation or inspection under the provisions of this chapter, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than one (1) year, or by both.

(11) As used in this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

HCR 10, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Labor and Industry to study temporary and part-time work, particularly the nature and scope of benefits available to part-time employees.

WHEREAS, significant demographic changes are occurring in Kentucky which affect the workforce; and

WHEREAS, among these changes is a growing trend to use part-time and temporary employees; and

WHEREAS, most temporary employees do not enjoy the full range and protection of benefits available to permanent full time employees; and

WHEREAS, it is deemed a valid public purpose to explore the social and economic implications of the expanded use of temporary workers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Interim Joint Committee on Labor and Industry is directed to study, during the 1992-93 interim, the phenomenon of part-time and temporary work. Relevant questions for investigation could include, but not be limited to the following:

(a) The extent to which temporary and permanent part-time workers are utilized in the private sector and government workforces;

(b) Whether the use of temporary workers is a growing trend (as forecast nationally) in Kentucky or has it levelled off as a relatively fixed portion of the workforce;

(c) What fringe benefits are offered to temporary workers and what percentage of this group receives them;

(d) What types of fringe benefits are needed;

(e) Whether any state protections may be necessary for temporary workers; and

(f) Whether increased employment of temporary workers should be encouraged or discouraged as a matter of state policy.

Section 2. That the Interim Joint Committee on Labor and Industry is directed to provide its findings and recommendations to the Legislative Research Commission no later than October 1993.

Section 3. Staff services to be utilized in completing this study are estimated to cost thirty thousand dollars ($30,000). These staff services shall be provided from the regular Commission budget, and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Tourism Development and Energy reported **HB 6** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to telephone solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 5 of this Act, "automated calling equipment" means any device or combination of devices which is used to select or dial telephone numbers and to deliver recorded messages to the numbers so selected or dialed.

(2) Unless the conditions set out in paragraphs (a) to (f) of this subsection are met, no person shall use automated calling equipment, or cause it to be used, for conducting polls, for soliciting information, or for advertising goods, services, or property:

(a) The person receiving the call consents to it, as specified in Section 2 of this Act;

(b) The recorded message clearly states the name and telephone number of the person or organization initiating the call within the first twenty-five (25) seconds of the message and at the conclusion of the message. That telephone number given in the recorded message shall, during normal office hours, be answered promptly and personally by an agent of the person or organization on whose behalf the automatic calls are made, who is able to provide information concerning the automatic calls;

(c) The automated calling equipment terminates its connection with any telephone call within ten (10) seconds after the person called either fails to consent to hear a recorded message or hangs up the telephone;

(d) The use does not involve either the random or sequential dialing of telephone numbers, does not call telephone numbers which are omitted from the telephone directory at the customer's request, and does not call hospitals, nursing homes, fire protection agencies, or law enforcement agencies;

(e) Calls using the automated calling equipment are made only between 8:00 a.m. and 9:00 p.m.; and

(f) The automated calling equipment operates only when it is attended and is designed or installed so that it does not operate without an attendant, even in the event of power failures.

(3) Nothing in this section prohibits the use of automated calling equipment to make calls with recorded messages when the calls:

(a) Are made in response to calls initiated by the person to whom the automatic call or recorded message is directed;

(b) Concern goods or services which were previously ordered or purchased;

(c) Relate to collection of lawful debts; or

(d) Are made by a public school as part of a program to regulate and control absenteeism of students.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A person may consent to a call made with automated calling equipment when:

(a) A live operator introduces the call and states an intent to play a recorded message; or

(b) By using the telephone keypad to provide a consent response.

Consent obtained pursuant to this subsection applies only to the particular call and does not constitute prior consent to receive further calls through automated calling equipment.

(2) A person may consent to receive telephone calls through automated calling equipment by giving written consent to the person using automated calling equipment or causing it to be used.

(a) Any form used to obtain written consent shall state clearly and conspicuously its purpose and effect and shall clearly and conspicuously give notice of how the consent can be withdrawn.

(b) A record of written consent shall be maintained by the person to whom consent is given and shall be made available to the Attorney General or its authorized representative during normal business hours and upon twenty-four (24) hours' notice.

(c) A written consent to receive telephone calls through automated calling equipment shall be void on and after the fifteenth day after receipt of a letter withdrawing the consent.

(d) Unless withdrawn, a written consent shall be valid for two (2) years from the date on which it is executed; the record of written consent shall be maintained by the person to whom consent is given for at least the same period of time.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "telephone fee line" means a telephone number with a charge attached to calling it, whereby the telephone company as billing agent charges the caller an amount for accessing the line in addition to applicable rates, if any, for the telephone call.

(2) No person shall use automated calling equipment, or cause it to be used, to solicit persons to call a telephone fee line under his control.

(3) No telephone company shall knowingly provide a telephone fee line to a person who solicits calls to that line through the use of automated calling equipment. A telephone company shall, on order of the Attorney General, withdraw control of a telephone fee line from any person if calls to that line are solicited by automated calling equipment.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any violation of Section 1, 2, or 3 of this Act shall be an unfair, false, misleading, and deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(2) All of the remedies, powers, and duties provided for the Attorney General in KRS 367.190 to 367.300, and all of the penalties provided in KRS 367.990, pertaining to acts declared unlawful by KRS 367.170, shall apply to acts and practices declared unlawful in Sections 1, 2, and 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Prior to using automated calling equipment to call telephone numbers in this Commonwealth, a person or company shall first obtain a permit from the Attorney General. The application for permit shall include:

(a) Name, address, and telephone number of the company or person utilizing the equipment;

(b) If the address required by paragraph (a) of this subsection is not in Kentucky, the name and address of a designated agent for the automated calling equipment operator located in Kentucky;

(c) A surety bond executed by the automated calling equipment operator from a surety company authorized to do business in this Commonwealth for the sum of ten thousand dollars ($10,000), to be maintained continuously in full force and effect. The Attorney General may accept an alternate form of surety, such as a letter of credit, for an operator demonstrating financial responsibility.

(2) The Attorney General shall promulgate administrative regulations to govern the issuance, revocation, suspension, or reissuance of permits for automated calling equipment operators utilizing equipment to call telephone numbers located in Kentucky. The Attorney General may revoke permits for any violation of Section 1, 2, or 3 of this Act.

The Committee Amendment No. 1 to **HB 6** is as follows:

Amend printed copy of **HB 6** on page 5, line 17, after "***(1)***" by adding "***Unless covered by one (1) of the exceptions in Section 1(3) of this Act, and***".

Calendar

HB 61, **HB 146**, **HB 148**, **HB 154** and **HB 167** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow floor privileges to Dr. Thomas Clark. Agreed.

Orders of the Day

HB 24 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **HB 24** be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See January 15, 1992 roll call on **HB 24** - Appendix.)

HB 24 was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 24** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Representative Stumbo moved that the rules be suspended to allow floor privileges to invited guests. Agreed.

Representative Stumbo moved that the rules be suspended to allow announcements and to act upon Resolutions while awaiting the arrival of the Senate. Agreed.

Representative Sanders moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sanders moved that his vote be changed from "nay" to "yea" on **HB 8**. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Representative Stumbo introduced Senator Karem who presided over the program.

Vic Hellard, Director of the Legislative Research Commission, and Representative Worthington addressed the Joint Session concerning the Bicentennial Celebration of the Commonwealth of Kentucky. Vic Hellard, portraying the late Governor Edwin Morrow, delivered the following speech.

GOVERNOR EDWIN MORROW SPEECH

Presented by Vic Hellard, Jr.

House Chamber

January 15, 1992

Governor Patton, Mr. Speaker Blandford, Senator Rose, Preacher Karem, Dr. Thomas Clark, distinguished members of the Kentucky General Assembly, thank you for allowing me the opportunity to address this august assemblage today.

In 1915, I ran against a fellow named Owsley Stanley for Governor. And coming up here yesterday I happened to run into Owsley Stanley on the train and we had some wonderful reminiscings about that time. We remain close personal friends in spite of that campaign and we had a lot of good debates.

In 1915 Owsley beat me by 471 votes by the official count. Now that was a strange count indeed for in 1919, Representative Worthington, I ran again and won by 40,000 votes, which prompted some Kentuckians to speculate that I was the only Governor ever twice elected to serve his terms concurrently.

But during that 1915 debate we travelled together, Owsley and I. We would have dinner together, we would debate, we would sit by after dinner and have some good Kentucky bourbon, and more often than not we would end up sleeping together in the same bed. But remember in 1915 there just weren't a whole lot of places for people to sleep who were travelling. Now I didn't mind sleeping with Owsley Stanley, oh, no, no, not at all. Except the man snores! Terribly! Well, actually, Gentleman from Ohio, it's more like a braying, but of course, he is a Democrat.

Now reminiscing coming down here we talked about that time in Glasgow, Representative Nunn, when we met there for a debate. We'd travelled there together the night before and we had a delightful time with local officials, and we imbibed some good Kentucky bourbon and had fellowship.

The next morning we arose early and attended to our political obligations. And that afternoon we went to the Courthouse where we were to debate and there was some good Western Kentucky burgoo, and during the festivities why Stanley imbibed some more good Kentucky bourbon, and he ate a lot of good Western Kentucky burgoo and it was an awfully hot day.

We got on the platform to speak and I was told to speak first. I was speaking and to my right I heard a rather strange noise. I looked to my right and there was Owsley bent over to the side vomiting in front of all those people, and I was embarrassed. I was mortified and sorry for my friend's discomfort, but I continued to speak. He straightened himself up, went back to his seat and sat down.

I finished my remarks and I sat down. Owsley came forward in a somewhat unsteady manner wiping the sweat from his brow, drew himself up to his full measure and looked that crowd in the eye and said, "Gentlemen, for what you have just witnessed I most humbly apologize, but every time I hear Ed Morrow speak it makes me sick to my stomach!"

Well, lest my Democratic friends think I am belittling my friend Owsley Stanley, I am not, for he is a great Kentucky leader. As a matter of fact, probably the greatest act of political courage I have ever witnessed was performed by Owsley Stanley when he was Governor, and went to Murray, Kentucky, to prevent a lynching from taking place by offering himself up to the lynch mob.

That was a real act of courage but it stopped the lynching, just as my actions in 1920 stopped a lynching in Lexington. I was forced to send a troop of Kentucky militia to the Fayette County Courthouse to see that the law was observed and the judicial process allowed to proceed.

Unfortunately, a mob of some 6,000 beset those troops. A battle ensued, several Kentuckians were killed, scores more were wounded, but the majesty of the law was unheld. The national press titled that the "Second Battle of Lexington". And more than one of them has suggested that our decisive action dealing with the lawless element at that time was the turning point in America for dealing with mob violence. I hope that is so. I hope that is so.

Well, since leaving office I have kept up with your work for my love for Kentucky is as eternal as the beauty of her mountains and her streams. And I have paid particular attention to your work in education, in education reform, and I congratulate you for it.

In 1920, I stood in this very spot speaking to a joint session of the General Assembly, and at that time I told them that Kentucky education was in a crisis. More particularly that Kentucky rural education was in a crisis, that Kentucky had neglected her country children.

I also said that we had to find a way to remove from politics the state Superintendent of Public Instruction and the local superintendents of public instruction. At that time I offered a recommendation, a suggestion that a constitutional amendment be passed which would take the state Superintendent of Public Instruction out of the political arena and put him into the statute as an appointed office, where he ought to be. And I tell you in 72 years nothing has occurred to make me change that recommendation.

I also said to you that school reform at that time was important, but I pointed out that proper financing of education was important. That in the proper financing of education I said to that assemblage that generosity is economy, savings extravagance. Education is an investment. Ignorance is the meanest tax of all.

But I'm sorry, I really didn't come here today to talk to you about Owsley Stanley or about education. My lovely wife, Kate, says that I sometimes ramble and I'm afraid I was carried away by the moment. I'm really here to talk to you about Kentucky and Kentucky's gifts to this nation as we approach her birthday. And indeed there is no altar of national love or national service on which Kentucky has not proudly laid her priceless gifts of head and heart, of soul and body. There has been no march of progress in which she did not share, no field of endeavor in which she did not toil, no victory which she did not help to win, and no defeat which she did not suffer, and no star on the flag which she did not help keep in its field of blue.

To tell the story of Kentucky's gifts to the life and progress of the nation, to recount the lofty deeds, and the names of her distinguished sons and daughters is impossible in the brief time allowed today. We can only sketch the mountain peaks of her influence.

During the years of her terrible struggle for existence, even before her entrance into the Union, her hearty sons and daughters were leading the vanguard in the march of the nation's progress. Leading in that march of civilization started by Boone and his companions, where they threw themselves beyond the walls of the Appalachians and through the gaps in the Cumberlands and pushed on beyond, beyond the Missouri and across the western prairies, beyond the frowning barriers of the Rockies and down to the lapping waves of the Pacific, where now teeming cities light their lamps by the setting sun 'ere it sinks into ocean's outstretched arms.

Ah, pioneers of Kentucky. Ah, Wilderness Road. Crimsoned with blood, golden with romance and legend, your story will live as long as history finds a pen or truth a tongue. Boone, Kenton, Harrod, Whitley, Logan, your moccasined feet have left their imprint in the sands of time forever. It was the Kentucky pioneer, those knights in buckskin, who followed the vision granted quest of George Rogers Clark, and who, starting at the falls of the Ohio, pressed on through swamps and morass, pressed on through snow and ice, pressed on through difficulties that immortalized endurance, to the walls of Old Vincennes, where they took from the sky the flag of England and gave that priceless jewel, the Northwest, to live forever in the diadem of the newborn Republic.

Sons of such sires, heirs of such tradition, is it no wonder that the sons and daughters of Kentucky have in the life, the thought, and the deeds of the nation, taken such high place and rank, and that Kentucky has given noble gifts to this nation? To the cause of education Kentucky gave a first newspaper, a first library, the first university west of the Appalachians and was among the first states in the Union to imbed deeply in the foundation of her government that Rock of Ages, the American common free school.

In the realm of statesmanship, we point with pride to Beck, and Breckinridge, Letcher, Carlisle, and Clay, the Great Compromiser, who stood with loving heart and lofty brain between the North and South, and like Moses serving his people, held back for years the cruel wave of fratricidal strife.

In jurisprudence, to Nicholas, Boyle, Robinson, and Harlan the Great Dissenter, in oratory to Marshall, Menifee, and Clay of the old school, and Bradley and James of the new. In surgery to McDowell, the father of oviotomy, and to Beshear who first amputated the thigh at the hip joint. In journalism, to Penn, and Prentiss, and to the greatest Roman of them all, our own "Marse" Henry, who first and for months alone, sounded that stirring bugle call which was at last to swell into the national chorus "To Hell with the Hohenzollerns and the Hapsburgs!"

In invention we point to John Fitch and James Ramsey who first mastered the principles of the steamboat and to Barlowe, who invented the planetarium and made a model of the first locomotive.

In theology to Bascum and Waller Rice and Alexander Campbell, who in the wilderness gave to religion a new faith which now numbers thousands of followers, in art to Jouett whose cunning so truthfully delineated the human form as to almost make his canvasses almost breathe and speak. To Joel Hart the sculpturer, whose genius touched cold and hard and formless marble to make it blush with its own loveliness.

In poetry to O'Hara who wrote the immortal elegy "For All the Immortal Dead". And to music, Kentucky gave a deathless song, one which blends in its heart the mysteries of twilight and moonlight, the glories of the newfound day, and which, speaking a universal language, tugged with memory's hands at the heartstrings of every wanderer as he listens to the call of the land of his birth and the tender, holy, beautiful strains of "My Old Kentucky Home".

To luxury and dreams the Bluegrass State has given its leaves of golden burley, to summon spirits when released by the fire steals into the fortunes of the brain and binds fast its sentinels of grief and care. To the sport of kings, to thrill the hearts and tense the muscles of thousands of spectators she has given the wild, tattooed beat of the flying hooves of Kentucky Thoroughbreds as they flash like light beneath the wire.

But, if there had been in all of Kentucky, but one travail of birth, that in a miserable, typical log cabin, one crooning love songs to a babe held in the hollow of a mother's shoulder, then that mother, Nancy Hanks, and that babe, Abraham Lincoln, this birth alone would have been enough to make every foot of Kentucky's soil holy, sacred ground forever.

In every struggle of our national existence, in every hour of our country's greatest hell, from Bunker Hill to Chateau Terry, Kentucky has kept step and heartbeat with the nation. In the Revolution the longrifles of the Kentuckians helped to encircle King's Mountain with a ring of fire. In 1812 Kentuckians died at the Melancholy Raising and under gallant Richard Johnson, Kentuckians found revenge at the battle of the Thames.

At New Orleans, Kentuckians stood by the side of "Old Hickory", and with unerring aim shot the Redcoats where their belts crossed across their hearts until they broke and ran.

On the lake, Kentucky furnished to victorious Perry Morgan one-fourth of his command, and it's almost unbelievable but true that in the total casualties of this war Kentucky suffered more than one-third. In Mexico, Kentuckians sanctified with their blood the ground of Buena Vista where fell McKee, young Harry Clay, gallant Vaughn.

In the great Civil War, Kentucky furnished the Commanders-in-Chief of both sides, Lincoln and Davis, and, to the contending hope, she gave more soldiers than she had voters. Like plumed knights to lead the host to battle, she gave Morgan, and Warford, Breckenridge and Rousseau, Kelly and Hanson, Duke and Adams, and at the close, Kentucky was the first state in the Union by legislative enactment to take back to her war-scarred breast all of her children, no matter whether they wore blue, or the gray.

And in the greatest, and we pray God Almighty what may be the last struggle for freedom, Kentucky with an unmixed loyalty met every demand, filled every quota, overprescribed her share of every liberty loan. Thank God the old state gladly, proudly made the great sacrifice.

Flesh of her flesh, bone of her bone, and core of her heart's desire, she sent her sons to meet like knights of old, the great adventure. From the waters of the Cumberland, she sent Howard Kinney, to die, like an eagle above the clouds, for freedom. From the Bluegrass, lovable Rubin Hutchcraft, to fill a heroes' grave. From the proud city of Louisville, worthy followers of her old legion. And to the role of the heroic bed, she gave Humphrey's, noble-hearted Charlie Gardner, gallant Humbler and many another to find a hero's grave in the land of our beloved LaFayette.

On flames' eternal camping ground, their silent tents are spread. Where glory guards with solemn 'round the bivouac of the dead.

Today, filled with the memory of our glorious traditions, and recollections of our deathless dead; in this hour consecrated by the memory of all Kentuckians before gone let us solemnly rededicate ourselves to the service of our beloved Commonwealth. Let us solemnly determine that with the help of God Almighty, the future of Kentucky shall be worthy of her past.

Thank you.

Representative Worthington moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

HR 27, by Representative Worthington: A RESOLUTION honoring the Kentucky Humanities Council for its Bicentennial Program, the Kentucky Chautauqua.

Representative Worthington moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION honoring the Kentucky Humanities Council for its Bicentennial Program, the Kentucky Chautauqua.

WHEREAS, the Commonwealth of Kentucky will celebrate its 200th birthday on June 1, 1992; and

WHEREAS, the Bicentennial Commission has planned a year long celebration; and

WHEREAS, the Kentucky Humanities Council has given to the Commonwealth of Kentucky its own 200th birthday gift through the development of the Kentucky Chautauqua; and

WHEREAS, the ten characters of the Chautauqua will invite the people to step on a magic carpet and ride back in time to some of the most fascinating moments and people in Kentucky history; and

WHEREAS, two free presentations by the ten characters of the Chautauqua will be available to every county during the period of Memorial Day through Labor Day 1992;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its sincere appreciation to the Humanities Council members and Virginia Smith, Executive Director, and her staff for this wonderful gift which will be shared by all Kentuckians.

Section 2. That the House applauds the ten Kentuckians participating in the Chautauqua for their talents and spirit of dedication to preserving the history of some of Kentucky's finest citizens.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to the Kentucky Humanities Council, 417 Clifton Avenue, University of Kentucky, Lexington, Kentucky 40508-3406.

HR 27 was adopted by voice vote.

HR 28, by Representative Worthington: A RESOLUTION in honor of Kentucky's two hundredth anniversary of statehood and the Kentucky Bicentennial Commission.

Representative Worthington moved the adoption of the following **HR 28**:

HR 28, A RESOLUTION in honor of Kentucky's two hundredth anniversary of statehood and the Kentucky Bicentennial Commission.

WHEREAS, after years of struggle and hardship and several constitutional conventions, the Commonwealth of Kentucky was established as the fifteenth state of the United States of America on June 1, 1792, with Isaac Shelby at the helm as Kentucky's first Governor; and

WHEREAS, during the 200 years since Governor Shelby took office, Kentucky has played a critical role in the growth, development, and history of this nation; and

WHEREAS, for two centuries, Kentuckians from all walks of life through their courage, leadership and dedication blazed important new trails opening the way for progress while preserving the rich heritage and traditions for which Kentucky is so revered; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to remember and preserve the origin of this Commonwealth which opened the western frontier and dramatically changed the course of the nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is eagerly awaiting June 1, 1992, when the Commonwealth of Kentucky celebrates its two hundredth anniversary of statehood.

Section 2. That this honorable body commends the Kentucky Bicentennial Commission for its dedication toward enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of the Commonwealth to join in the observance of this important event.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to the Kentucky Bicentennial Commission, 403 Wapping Street, The Bush Building, Room 114, Frankfort, Kentucky 40601.

HR 28 was adopted by voice vote.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Motions, Petitions and Communications

Representative Williams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 1**, **HB 8** and **HB 11**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 1**, **HB 8** and **HB 11**. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Long moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 34, by Representative Long: A RESOLUTION honoring the Shelby County High School Rockets baseball team.

Representative Long moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION honoring the Shelby County High School Rockets baseball team.

WHEREAS, Shelby County, the 1979 State High School baseball champions, returned to the final four this year to play Franklin-Simpson for the state title; and

WHEREAS, the valiant efforts of Michael Stoner and his teammates fell short of victory on this fateful day; and

WHEREAS, the Rockets have much to be proud of as they finished their season with a win-loss record of 37 and 5; and

WHEREAS, Coach Phil Bell, in his tenth year at Shelby County, had nothing but praise for State Champion Franklin-Simpson and their standout pitcher Janos Brisco;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body does hereby honor the Shelby County High School Rockets baseball team for their successful season and valiant run at the state title.

Section 2. That the House applauds the good sportsmanship exhibited by the Rockets and their Coach Phil Bell.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Phil Bell, Route #4, Shelbyville, Kentucky, 40065.

HR 34 was adopted by voice vote.

Representative Bowling moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following Legislative Citation No. 2. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends Reverend W.B. Bingham. Your forty-two years of service and friendship to the Bingham Baptist Church are exemplary measures of loyalty and dedication. You have given unselfishly of yourself to the service, general good and spiritual well being of the people of Middlesboro and Bell County.

The House of Representatives joins Representative Mike Bowling in honoring you for your service and contributions to the many people whose lives you have touched.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 269, by Representative Yates: AN ACT relating to continuing education requirements for professional engineers and land surveyors.

HB 270, by Representative Lewis: AN ACT relating to the Kentucky Uniform Principal and Income Act.

HB 271, by Representative Long: AN ACT relating to city citation and safety officers.

HB 272, by Representatives Long, Stokes, Freibert, Mack, Burch, Scorsone and Heleringer: AN ACT relating to enabling the collection of health data information, and making an appropriation.

HB 273, by Representative Brown: AN ACT relating to income taxes.

HB 274, by Representative Brown: AN ACT relating to income taxes.

HB 275, by Representative McElroy: AN ACT relating to certificate of need.

HB 276, by Representative Morris: AN ACT relating to economic development.

HB 277, by Representative Lewis: AN ACT relating to settlements of estates.

HB 278, by Representative Lewis: AN ACT relating to descent of property.

HB 279, by Representative Lewis: AN ACT relating to limitation on actions.

HB 280, by Representatives Richards, Crupper, Farrow, Rapier, Hancock, Donnermeyer, Barrows, Walker, and Nunn: AN ACT relating to community education.

HB 281, by Representative Nunn: AN ACT relating to motor vehicles.

HB 282, by Representative Stokes: AN ACT relating to basic health benefit coverage.

HB 283, by Representative Stokes: AN ACT relating to health care.

HB 284, by Representative Noe: AN ACT relating to the Education Professional Standards Board.

HB 285, by Representative Noe: AN ACT relating to revocation of certificates.

HB 286, by Representative Noe: AN ACT relating to school taxes.

HB 287, by Representatives Wayne and L. Clark: AN ACT relating to waterworks in cities of the first class.

HR 29, by Representative Gray: A RESOLUTION honoring the University of Louisville Cheerleading Squad.

HJR 30, by Representative Hourigan: A JOINT RESOLUTION ratifying the original proposed Second Amendment to the Constitution of the United States of America deferring any variations in the compensation of members of the United States Congress until an election of Representatives shall have intervened.

HR 31, by Representative Farrow: A RESOLUTION honoring the Georgetown College Tigers NAIA Division II national champion football team and coaches.

HR 32, by Representatives Gedling, Arnold, Pritchett, Johnson and Blandford: A RESOLUTION urging and praying for the speedy recovery of County Judge/Executive Danny Boling.

HR 33, by Representative Cyrus: A RESOLUTION relating to health care.

HR 35, by Representatives Bronger, Barrows, Heleringer, Northup, Stokes, Wayne and Yates: A RESOLUTION honoring John Michael "Mike" Barry.

Report of Committees (Continued)

The Committee on Rules reported that **HB 61**, **HB 146**, **HB 148** and **HB 154** have been posted for passage in the Orders of the Day for January 16, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 167**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 126**

State Government: **HB 156**

Representative Ridley moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ridley moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 39, Representative Keith; **HB 203**, Representative K. Harper; **HB 247**, Representative Toby; **HB 265**, Representative K. Harper.

Representative Barrows moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 35**:

HR 35, A RESOLUTION honoring John Michael "Mike" Barry.

WHEREAS, Mike Barry was a loving husband to Bennie Lancaster Barry and devoted father to Jane, Catherine, Winifred, Anne, Mary, Julia and John; and

WHEREAS, Mike Barry was known to all for his witty, caustic, and irreverent newspaper columns; and

WHEREAS, Mike Barry through the pages of the Kentucky Irish American and Louisville Times did bring many moments of joy and humor to the daily lives of Kentucky citizens; and

WHEREAS, Mike Barry's columns were read by presidents, governors, priests and bookmakers; and

WHEREAS, Mike Barry was the sling shot to the blimps of this world; and

WHEREAS, Mike Barry has been called "One of a Kind" and "the Dean of Kentucky Derby Writers"; and

WHEREAS, Mike Barry will be missed by many who were fortunate to call him friend; and this esteemed body joins Representative Joe Barrows in bidding farewell to Mike Barry and extends to his family deepest condolences;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day it does so in memory of John Michael "Mike" Barry.

Section 2. That the clerk of the House is directed to send a copy of this resolution to Mrs. Barry, 2362 Winston Avenue, Louisville, Kentucky 40205.

HR 35 was adopted by voice vote.

Announcements

The following meetings were announced:

Joint meeting of the Committee on Economic Development, Thursday, January 23, 1992.

Elections and Constitutional Amendments, 9:00 a.m., January 16, 1992.

Majority Caucus upon adjournment today.

Natural Resources and Environmental Protection, 11:00 a.m., January 16, 1992.

Health and Welfare, 12 Noon, January 16, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 16, 1992.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Johnson, Keith, Kerr, Lear, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 1—LeMaster.

The motion to adjourn was adopted.

THURSDAY, JANUARY 16, 1992

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Steve Cook, Georgetown College, Georgetown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Noe and T. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 15, 1992 be dispensed with and the same approved. Agreed.

Representative Farrow moved that the rules be suspended to act upon a Resolution and to grant floor privileges to the Georgetown College Football Team. Agreed.

Representative Farrow moved the adoption of the following **HR 31**:

HR 31, A RESOLUTION honoring the Georgetown College Tigers NAIA Division II national champion football team and coaches.

WHEREAS, it was championship football at its finest, a game of epic proportions, as the Georgetown Tigers won the NAIA Division II National Championship on its home turf on December 21, 1991; and

WHEREAS, it was not an easy victory as the Tigers were up against perennial power Pacific Lutheran University from Tacoma, Washington, a school that has been in the playoffs in fifteen of the last seventeen seasons; and

WHEREAS, Georgetown became the all-time NAIA scoring leader this season by piling up 55.1 points per game, enough to surpass the University of Minnesota, and move into second place on college football's all-time scoring list; and

WHEREAS, the Tigers rolled up 411 yards of total offense, 265 passing yards of which came from quarterback Dane Damron, who, despite playing with a broken bone in his throwing hand, was named the game's best offensive player; and

WHEREAS, Coach Kevin Donley, recently named national coach of the year for NAIA Division II, said Georgetown's "52 angle" defense, anchored by All-American Chris Hogan and Jeff Watts who was voted defensive player of the game, was what won the game for the Tigers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate Coach Kevin Donley and his Georgetown Tigers football team for claiming the NAIA Division II championship.

Section 2. That the House applauds the work ethic and teamwork exhibited by the Tigers in attaining their goal, and the support and guidance provided by Coach Donley and his assistants Ernie Hornig, Bill Cronin, Stewart "Red" Fought, Fred Waugh, Jeff Durden, and Rob Payne.

Section 3. That the Clerk of the House of Representatives is directed to transmit seven copies of this Resolution to Coach Kevin Donley, Georgetown College, Georgetown, Kentucky.

HR 31 was adopted by voice vote.

Representative Farrow moved that a call of the roll be taken to show co-sponsors of **HR 31**. Agreed.

On the roll call the vote was yeas 94—Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P.

Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 26**

Appropriations and Revenue: **HB 273, HB 274**

Business Organizations and Professions: **HB 269**

Cities: **HB 271, HB 281, HB 287**

Economic Development: **HB 276**

Education: **HB 266, HB 268, HB 280, HB 284, HB 285, HB 286**

Elections and Constitutional Amendments: **HJR 30**

Health and Welfare: **HB 275, HB 282, HB 283**

Judiciary: **HB 270, HB 277, HB 278, HB 279**

State Government: **HB 267, HB 272**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Education: **HB 186, HB 243, HB 244, HCR 22**

Tourism Development and Energy: **HB 191**

The Clerk announced that the Committee on Committees has made the following assignment: Representative Paul Clark to the Committee on Health and Welfare.

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 48, HB 50, HB 51, HB 52, HB 53, HB 54, HB 55, HB 56** with Committee Amendment attached thereto, and **HB 57** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 48, AN ACT relating to the organization of the executive branch of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments), and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Office of Administration.
  2. Education and Humanities Cabinet:
    (a) Department of Education.
      (1) State Board for Elementary and Secondary Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Educational Television.
    (d) Kentucky Historical Society.
    (e) Kentucky Teachers' Retirement System Board of Trustees.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Department of Law.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department for Existing Business and Industry.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

(f) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) [~~Registry of Election Finance.~~

~~(k)~~] Board of Claims.

(k)[~~(l)~~] Crime Victims Compensation Board.

(l)[~~(m)~~] Kentucky Board of Tax Appeals.

(m)[~~(n)~~] Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

9. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

10. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

11. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

12. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

HB 50, AN ACT relating to financial disclosure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.760 is amended to read as follows:

(1) The Registry of Election Finance shall appoint [~~such~~] employees [~~as are~~] necessary to provide the service to carry out all purposes of KRS 61.710 to 61.780, including an attorney or attorneys on a full or part-time basis.

(2) The registry shall ***promulgate administrative*** [~~adopt such~~] regulations and official forms and perform ***other*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of KRS 61.710 to 61.780. The registry is authorized and empowered to:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for the individuals subject to KRS 61.710 to 61.780 describing the requirements of the law, including uniform methods of reporting;

(c) Permit copying or photocopying of any reports as requested by any person;

(d) Ascertain whether any individual subject to the requirements of KRS 61.710 to 61.780 has failed to file a report or has filed a defective report, give notice to delinquents of failure to file the report, as provided in KRS 61.740;

(e) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of documents and attendance of witnesses***; and***

(f) After holding a hearing, assess civil penalties of not more than one hundred dollars ($100) per day for each day required reports are filed late not to exceed a total of one thousand dollars ($1,000) per candidate or officeholder per election.

Section 2. The following KRS section is repealed:

61.770 Registry may institute action to declare vacancy upon determination violation occurred.

HB 51, AN ACT relating to campaign finance definitions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in ***this chapter, unless the context requires otherwise*** [~~KRS 121.110 to 121.200, and 121.990~~]:

(1) "Registry," means the Kentucky Registry of Election Finance;

(2) "Election," means any primary, regular, or special election to fill vacancies. ***Each primary, regular, or special election shall be considered a separate election***;

(3) "Committee," means one (1) of the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to any state, county, city, or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question ***which appears on the ballot*** if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee, ***political issues committee,*** or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; or

(d) An executive committee of a political party;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by such groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution," means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or ***any*** [~~political~~] committee. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a [~~political~~] committee, candidate, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum ***in any one (1) election*** in excess of the contribution limit provided in KRS 121.150***(6)***[~~(5)~~];

(b) Payment by any person other than the candidate, his authorized treasurer, or ***campaign committee*** [~~political committees~~], of compensation for the personal services of another person which are rendered to a candidate's campaign;

(c) Goods, advertising, or services ***with a value of more than one hundred dollars ($100) in the aggregate per election, which are*** furnished to a ***candidate or a committee*** [~~candidate's campaign~~] without charge, or at a rate which is less than the rate normally charged for such goods or services;

(d) Payment by any person other than the candidate, his authorized treasurer, or ***campaign committee*** [~~political committees~~] for any goods[~~,~~] or services ***with a value of more than one hundred dollars ($100) in the aggregate per election, which are*** utilized in a candidate's campaign;

(e) Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election; or

(f) Notwithstanding foregoing meanings of "contributions," the word shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office.

HB 52, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate, ***constitutional amendment, or public question which will appear on the ballot*** in an election, except through the duly appointed campaign manager[~~,~~] or campaign treasurer of the candidate or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate, ***constitutional amendment, or public question which will appear on the ballot*** and which is not made with any direct or indirect cooperation, consent, request, [~~or~~] suggestion, or consultation involving a candidate, [~~or~~] his ***agent, or any registered committee*** [~~authorized committee or agent~~]. Any person making an "independent expenditure," as defined herein, ***shall*** [~~must~~] report these expenditures, when ***they exceed*** [~~he exceeds~~] three hundred dollars ($300) per calendar year, on forms provided by the registry.

(2) The solicitation from and contributions by candidates, ***permanent committees,*** and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established

primarily for the public good is expressly prohibited; provided that it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic, or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) No candidate, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of one hundred dollars ($100), and all ***anonymous*** [~~such~~] contributions in excess of one hundred dollars ($100) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, [~~or~~] committee, or anyone acting for the candidate, shall accept a contribution of more than four thousand dollars ($4,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, [~~or~~] committee, or anyone acting for the candidate shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee, or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than four thousand dollars ($4,000) to any one (1) candidate, or anyone acting for the candidate, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, or anyone acting for the candidate, in any one (1) election.

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than six thousand dollars ($6,000) to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year.

(11) No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person.

(12) No candidate for the office of Governor shall make a personal loan to his committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000).

(13) No candidate for nomination to any state, county, city, or district office, nor committee, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate shall contribute for primary election expenses after the date of the primary.

(14) No candidate for any state, county, city, or district office at a general election, nor committee, nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No candidate for Governor or the immediate family thereof may loan any money, service, or other thing of value to his campaign, and all such moneys or services shall be deemed a contribution, which may not be recovered by the candidate, except to the extent of a total of fifty thousand dollars ($50,000).

(17) No candidate, committee, except a political issues committee, or contributing organization, nor anyone on his or its behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(18) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

HB 53, AN ACT relating to campaign finance violations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who ***knowingly or*** willfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who ***knowingly or*** willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city, or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate, or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who ***knowingly or*** willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) [~~Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.~~

~~(5)~~] Any corporation that ***knowingly or*** willfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(5)[~~(6)~~] Any person who ***knowingly or*** willfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(6)[~~(7)~~] Any person who ***knowingly or*** willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(7)[~~(8)~~] Any person who ***knowingly or*** willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(8)[~~(9)~~] Any person who ***knowingly or*** willfully violates any provision of KRS 121.110 to ***121.230*** [~~121.200~~] shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(9)[~~(10)~~] The nomination for, or election to, an office of any candidate who ***knowingly or*** willfully violates any provision of KRS 121.110 to ***121.220*** [~~121.200~~], or whose campaign treasurer ***knowingly or*** willfully violates any provision of KRS 121.110 to ***121.220*** [~~121.200~~], with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, [~~or~~] any candidate for the office sought to be declared vacant, or any qualified voter.

(10)[~~(11)~~] The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS ***121.056 and*** 121.110 to ***121.230*** [~~121.200~~].

(11)[~~(12)~~] The Commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(12)[~~(13)~~] Any officeholder who ***knowingly or*** willfully violates the provisions of KRS 121.150(11) shall be subject to removal from office by impeachment.

(13)[~~(14)~~] Prosecution for violation of any provision of this chapter shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(14)[~~(15)~~] Any person who ***knowingly or*** willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(15)[~~(16)~~] Any corporation that ***knowingly or*** willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16)[~~(17)~~] Any person who ***knowingly or*** willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

(17)[~~(18)~~] Any person who ***knowingly or willfully*** violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(18)[~~(19)~~] Any person who fails to pay a civil penalty, assessed by the registry for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

Section 2. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law.

(2) When the registry concludes that there is probable cause to believe that the law has been violated, it may hold a hearing to determine if ***a*** [~~such~~] violation has occurred. [~~In such event,~~] The registry shall notify the complainant and the person complained against ***if*** [~~that~~] a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. If a hearing is held, the person complained against may choose whether the hearing shall be open or closed. At the hearing, the person complained against shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits, and the right to cross-examine opposing witnesses. When the registry determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order to the violator to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this ***chapter*** [~~law~~];

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of one thousand dollars ($1,000), for failure to file any report or other document or information required by law until ***the required*** [~~such~~] report, document, or information is filed, provided there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed one hundred dollars ($100) per violation for acts of noncompliance with provisions contained within this chapter, except violations of KRS 121.150(2) and reporting requirements contained within this chapter.

(3) If the registry concludes that there is probable cause to believe that the campaign finance law has been violated ***knowingly or*** willfully, it shall refer ***the*** [~~such~~] violation to the Attorney General for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon such motion for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court.

(4) Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the Attorney General for prosecution, may seek judicial review of ***the*** [~~such~~] action.

(5) If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

HB 54, AN ACT relating to penalties for campaign finance violations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.056 is amended to read as follows:

(1) No person who ***has knowingly contributed*** [~~contributes~~] more than ***the contribution limit established in KRS 121.150(6) in any one (1) election*** [~~four thousand dollars ($4,000)~~] to a gubernatorial candidate ***who is elected to the office*** shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has ***knowingly*** contributed more than ***the contribution limit established in KRS 121.150(6) in any one (1) election to a gubernatorial candidate who is elected to the office*** [~~four thousand dollars ($4,000)~~] or any entity in which ***the*** [~~such a~~] person has a substantial interest shall have any contract with the Commonwealth of Kentucky ***during the term of office following the campaign in which the contribution shall be made*** unless ***the*** [~~said~~] contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(3) (a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of ***an*** [~~such~~] entity or the person and his immediate family together own or control ten percent (10%) or more of ***an*** [~~such~~] entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section[~~, if the money or property contributed together with any other contribution made by such person would exceed the limit on individual campaign contributions. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of four thousand dollars ($4,000) as provided by those subsections, shall apply to a person who makes a total contribution in excess of four thousand dollars ($4,000) as provided by this subsection~~].

HB 55, AN ACT relating to campaign treasurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer to act as his agent at the time and at the office with which he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds and deposit all contributions in that depository;

(b) Keep detailed and exact accounts of contributions in general and by name, address, age, if under legal voting age, and occupation where the contribution exceeds three hundred dollars ($300); the occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of ***fifty*** [~~twenty-five~~] dollars ***($50)*** [~~($25)~~] shall be by check and the treasurer's records shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of ***six (6)*** [~~four (4)~~] years from the date he files his last report under KRS 121.180(2)(a); and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports ***shall*** [~~must~~] be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and ***shall*** [~~must~~] comply with the reporting provisions of KRS ***121.180*** [~~121.015 and 121.110 to 121.200~~] and those adopted by the registry.

HB 56, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.180 is amended to read as follows:

(1) ***(a) Any candidate or campaign treasurer shall be exempt from filing any pre-election finance reports required by subsection (3) of this section if the candidate files a form prescribed and furnished by the registry stating that he shall not accept contributions or expend in excess of three thousand dollars ($3,000) in any one (1) election to further his candidacy. A separate form shall be required for each primary, regular, or special election. The form shall be filed with the same office with which a candidate files his nomination papers.***

(b) Any candidate or campaign treasurer shall be exempt from filing any campaign finance reports required by subsection (3) of this section if the candidate files a form prescribed and furnished by the registry stating that he currently has received no contributions and shall not accept contributions or expend in excess of two hundred fifty dollars ($250) in any one (1) election. A separate form shall be required for each primary, regular, or special election. The form shall be filed with the same office with which a candidate files his nomination papers.

(c) For a primary election, a candidate shall file his request for exemption not later than the deadline for filing nomination papers and shall be bound by its terms unless he rescinds it in writing not later than fifteen (15) days after the filing deadline. For a regular election, a candidate shall file his request for exemption

not later than ten (10) days after the date of the preceding primary election and he shall be bound by its terms unless he rescinds it in writing not later than twenty-five (25) days after the date of the primary election. For a special election, a candidate shall file his request for exemption not later than ten (10) days after he is nominated for a special election, and he shall be bound by its terms unless he rescinds it in writing not later than twenty-five (25) days after the date on which he is nominated for a special election.

(d) Any candidate who is exempt from filing campaign finance reports pursuant to paragraph (a) or (b) of this subsection who accepts contributions or expends, or whose campaign treasurer accepts contributions or expends, in excess of the applicable limit in any one (1) election without rescinding his request for exemption in a timely manner shall comply with all applicable reporting requirements and, in addition to other penalties prescribed by law, upon a final determination that a violation occurred, he shall be ineligible as a candidate for the office sought, his nomination or election shall be void, and a vacancy shall be declared.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the [~~regular~~] primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(3)[~~(2)~~] ***Except for candidates or campaign treasurers exempted from reporting requirements pursuant to subsection (1) of this section,*** each campaign treasurer of ***a*** [~~an opposed~~] candidate, who ***accepts contributions*** [~~receives~~] or expends, expects to ***accept contributions*** [~~receive~~] or expend, or contracts to expend more than three thousand dollars ($3,000), campaign committee***,*** or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received [~~by him~~] from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made[~~, including "independent expenditures," as defined in KRS 121.150(1)~~]. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. Reports of all candidates***,*** [~~and their~~] campaign ***committees, and political issues committees*** [~~committee~~] shall be made as follows:

(a) [~~Persons becoming~~] Candidates***,*** [~~as defined in KRS 121.015(7) and~~] campaign committees***, and political issues committees*** which register in the year before the year an election in which the ***candidate or public question shall appear on the ballot*** [~~person or persons supported are to be candidates occurs~~], shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. [~~Such~~] Candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates***,*** [~~and their~~] campaign committees***, and political issues committees*** shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates***,*** [~~and their~~] campaign committees***, and political issues committees*** shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(4)[~~(3)~~ ~~(a)~~] All candidates, regardless of funds received or expended, [~~and their~~] campaign ***committees, and political issues committees*** [~~committee~~] shall make post-election reports within thirty (30) days after the election ***unless they shall be exempt pursuant to subsection (1)(b) of this section*** [~~; except as provided~~

~~by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office~~].

[~~(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by subsections (2) and (8) of this section for the regular election in November.~~]

(5)[~~(4)~~] In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer ***and political issues committee treasurer*** or other sponsor for inspection by the registry for ***six (6)*** [~~four (4)~~] years following the date of the election.

(6)[~~(5)~~] Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. ***All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.***

(7)[~~(6)~~] If the final statement of ***a*** [~~an opposed~~] candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually [~~by opposed candidates and annually by unopposed candidates~~], to be in the hands of the registry ***or*** postmarked within ten (10) days after April 15 and October 15 [~~for opposed candidates and October 15 for unopposed candidates~~], until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(8)[~~(7)~~] All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or ***campaign*** committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

[~~(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.~~]

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) ***business*** days after personally receiving ***any*** contributions [~~in excess of three thousand dollars ($3,000)~~], the candidate shall surrender possession of the [~~entire contribution or~~] contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the ***campaign*** [~~political~~] committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(11)[~~(10)~~] No candidate [~~as defined in this section,~~] nor any committee [~~as defined in this section,~~] shall use or permit the use of contributions or funds solicited or received for such person or in support of ***or opposition to*** a public issue to further the candidacy of such person for a different public office or to further a different public issue ***or to further the candidacy of any other person***. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person ***or to support or oppose the same public issue***, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate ***or for the election on the public issue*** if the funds or contributions are solicited or received at any time prior to the ***regular*** [~~general~~] election for which ***the candidate or public issue is on the ballot*** [~~he is a nominee~~] and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a ***public*** [~~political~~] issue or the candidacy of a person shall, ***in whole or in part,*** at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the ***state or county*** executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain such funds to further the same ***public*** [~~political~~] issue or to seek election to the same office.

Section 2. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.

4. [~~If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.~~

~~5.~~] In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.

5.[~~6.~~] Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

6.[~~7.~~] If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity, or withdrawal of a candidate, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than ninety-one (91) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 3. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk or the Secretary of State as provided in KRS 83A.047, file with the county clerk a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk or the Secretary of State shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office. [~~If, in accordance with the provisions of this section or KRS 83A.045(2)(b), a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.~~]

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 4. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer to act as his agent at the time and at the office with which he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds and deposit all contributions in that depository;

(b) Keep detailed and exact accounts of contributions in general and by name, address, age, if under legal voting age, and occupation where the contribution exceeds three hundred dollars ($300); the occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180***(3)***[~~(2)~~](a); and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 121.015 and 121.110 to 121.200 and those adopted by the registry.

Section 5. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.

(2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.

(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:

(a) Vacancies in candidacy shall be governed by KRS 118.105;

(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and

(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.

(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:

(a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and

(b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary, the election to fill the unexpired term shall be held in the manner prescribed in Section 152 of the Kentucky Constitution; and

(c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b)***6***[~~7~~].

The Committee Amendment No. 1 to **HB 56** is as follows:

Amend printed copy of **HB 56** on page 23, by adding the following after line 16:

"Section 6. KRS 5.229 is amended to read as follows:

The Twenty-ninth Representative District shall consist of the following territory:

COUNTY	PREC	SECT	NAME		—CENSUS—	
				TRACT	BLCK	SECT
JEFFERSON	B117		PRECINCT 117 29 DIS			
JEFFERSON	B119		PRECINCT 119 29 DIS			
JEFFERSON	B120		PRECINCT 120 29 DIS			
JEFFERSON	B121		PRECINCT 121 29 DIS			
JEFFERSON	C119		PRECINCT 119 30 DIS			
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	101	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	106	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	111	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	205	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	206	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	207	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	212	
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	302	0202
[~~JEFFERSON~~	~~I126~~		~~PRECINCT 126 37 DIS~~	~~012003~~	~~304~~	
~~JEFFERSON~~	~~I126~~		~~PRECINCT 126 37 DIS~~	~~012003~~	~~305~~]	
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	309	
[~~JEFFERSON~~	~~I126~~		~~PRECINCT 126 37 DIS~~	~~012003~~	399]	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	216	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	217	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	218	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	219	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	220	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	302	0201
JEFFERSON	J124		PRECINCT 124 38 DIS			
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	101	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	102	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	103	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	104	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	105	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	106	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	107	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	108	
JEFFERSON	P102		PRECINCT 102 45 DIS	011904	109	

JEFFERSON	P102	PRECINCT 102 45 DIS	011904	110
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	113
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	114
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	116
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	117
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	118
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	119
JEFFERSON	P102	PRECINCT 102 45 DIS	011904	121
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	201
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	202
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	209
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	210
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	211
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	212
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	213
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	215
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	216
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	217
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	218
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	219
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	220
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	221
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	222
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	223
JEFFERSON	P103	PRECINCT 103 45 DIS	011905	224
JEFFERSON	P106	PRECINCT 106 45 DIS	011901	101A
JEFFERSON	P106	PRECINCT 106 45 DIS	011901	104
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	105
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	106
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	107
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	108A
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	108B
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	109
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	110A
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	110C
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	110D

JEFFERSON	P107	PRECINCT 107 45 DIS	011901	112	
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	113	
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	114	
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	115	
JEFFERSON	P107	PRECINCT 107 45 DIS	011901	117	
JEFFERSON	P107	PRECINCT 107 45 DIS	012001	901	
JEFFERSON	P107	PRECINCT 107 45 DIS	012001	902	
JEFFERSON	P108	PRECINCT 108 45 DIS	011905	305	
JEFFERSON	P108	PRECINCT 108 45 DIS	011905	306	
JEFFERSON	P108	PRECINCT 108 45 DIS	011905	307	
JEFFERSON	P108	PRECINCT 108 45 DIS	011905	328	
JEFFERSON	P108	PRECINCT 108 45 DIS	011905	331	
JEFFERSON	P109	PRECINCT 109 45 DIS			
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	915	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	916	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	918	0201
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	919A	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	919B	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	919C	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	919D	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	920	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	921A	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	921B	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	921C	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	922A	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	922B	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	922C	
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	923	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	307	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	308	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	310	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	311	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	312	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	313	
JEFFERSON	P110	PRECINCT 110 45 DIS	012003	399	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	903	

JEFFERSON	P111	PRECINCT 111 45 DIS	012001	904	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	905	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	906	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	908	0202
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	909	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	910	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	911	0201
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	912	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	913	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	914	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	917	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	918	0202
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	925	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	926	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	927	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	999	
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	999	
JEFFERSON	P112	PRECINCT 112 45 DIS			
JEFFERSON	P113	PRECINCT 113 45 DIS			
JEFFERSON	P114	PRECINCT 114 45 DIS			
JEFFERSON	P115	PRECINCT 115 45 DIS			
JEFFERSON	P116	PRECINCT 116 45 DIS			
JEFFERSON	Q106	PRECINCT 106 46 DIS			
JEFFERSON	Q110	PRECINCT 110 46 DIS			
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	210	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	211	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	311	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	401	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	402	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	403	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	405	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	410	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	411	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	412	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	413	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	418	

JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	419	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	420	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	421	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	422	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	499	
JEFFERSON	Q120	PRECINCT 120 46 DIS	011703	499	

Section 7. KRS 5.237 is amended to read as follows:

The Thirty-seventh Representative District shall consist of the following territory:

COUNTY	PREC	SECT	NAME	—CENSUS— TRACT	—CENSUS— BLCK	SECT
JEFFERSON	H108		PRECINCT 108 35 DIS			
JEFFERSON	I101		PRECINCT 101 37 DIS			
JEFFERSON	I103		PRECINCT 103 37 DIS			
JEFFERSON	I104		PRECINCT 104 37 DIS			
JEFFERSON	I105		PRECINCT 105 37 DIS			
JEFFERSON	I106		PRECINCT 106 37 DIS			
JEFFERSON	I107		PRECINCT 107 37 DIS			
JEFFERSON	I108		PRECINCT 108 37 DIS			
JEFFERSON	I109		PRECINCT 109 37 DIS			
JEFFERSON	I110		PRECINCT 110 37 DIS			
JEFFERSON	I111		PRECINCT 111 37 DIS			
JEFFERSON	I112		PRECINCT 112 37 DIS			
JEFFERSON	I113		PRECINCT 113 37 DIS			
JEFFERSON	I114		PRECINCT 114 37 DIS			
JEFFERSON	I115		PRECINCT 115 37 DIS			
JEFFERSON	I117		PRECINCT 117 37 DIS			
JEFFERSON	I119		PRECINCT 119 37 DIS			
JEFFERSON	I120		PRECINCT 120 37 DIS			
JEFFERSON	I121		PRECINCT 121 37 DIS			
JEFFERSON	I122		PRECINCT 122 37 DIS			
JEFFERSON	I123		PRECINCT 123 37 DIS			
JEFFERSON	I124		PRECINCT 124 37 DIS			
JEFFERSON	I125		PRECINCT 125 37 DIS			
JEFFERSON	I126		PRECINCT 126 37 DIS	012002	404	
JEFFERSON	I126		PRECINCT 126 37 DIS	012002	406B	
JEFFERSON	I126		PRECINCT 126 37 DIS	012002	407	

JEFFERSON	I126	PRECINCT 126 37 DIS	012002	408
JEFFERSON	I126	PRECINCT 126 37 DIS	012002	409
JEFFERSON	I126	PRECINCT 126 37 DIS	012002	414
JEFFERSON	I126	PRECINCT 126 37 DIS	012002	415
JEFFERSON	I126	PRECINCT 126 37 DIS	012002	416
JEFFERSON	***I126***	***PRECINCT 126 37 DIS***	***012003***	***304***
JEFFERSON	***I126***	***PRECINCT 126 37 DIS***	***012003***	***305***
JEFFERSON	I126	PRECINCT 126 37 DIS	012003	306
JEFFERSON	***I126***	***PRECINCT 126 37 DIS***	***012003***	***399***
JEFFERSON	I127	PRECINCT 127 37 DIS		
JEFFERSON	J122	PRECINCT 122 38 DIS	012202	224
JEFFERSON	P104	PRECINCT 104 45 DIS		
JEFFERSON	P105	PRECINCT 105 45 DIS		
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	310
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	311
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	312
JEFFERSON	P110	PRECINCT 110 45 DIS	012001	313
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	305
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	306
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	307
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	308
JEFFERSON	P111	PRECINCT 111 45 DIS	012001	309.”

HB 57, AN ACT relating to the Registry of Election Finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.120 is amended to read as follows:

(1) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint [~~such~~] other employees [~~as are~~] necessary to carry out the purposes of this chapter.

(2) The registry may conduct hearings with regard to possible violations; and for the effective carrying out of its responsibilities the registry ***may*** [~~shall have the authority to~~] initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter, [~~or~~] enjoining violations thereof, or recovering any penalty prescribed by this chapter.

(3) The registry shall ***promulgate administrative*** [~~adopt such~~] regulations ***and***[~~,~~] official forms and perform ***other*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of ***this chapter*** [~~KRS 121.015 and 121.110 to 121.200~~]. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of [~~the~~] required reports;

(b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including ***interpretive policy opinions which shall provide precedent in their application to the circumstances given,*** uniform methods of bookkeeping and reporting, and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this chapter;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(e) Preserve all reports for at least ***six (6)*** [~~four (4)~~] years from the date of receipt. ***Duly certified reports shall be admissible as evidence in any state court***;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address, [~~and~~] occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of three hundred dollars ($300);

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140(2); ***and*** make public the fact that a violation has occurred and the nature thereof;

(j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums, or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;

(k) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, or district office;

(l) Conduct audits of receipts and expenditures of all candidates running for statewide office;

(m) Require that candidates shall maintain their records for a period of ***six (6)*** [~~four (4)~~] years from the date of the general election in their respective political races;

(n) Initiate investigations and make investigations with respect to reports upon complaint by any ***person*** [~~registered voter~~] and to initiate proceedings on its own motion; and

(o) Forward to the Attorney General any violations of this chapter which may become the subject of civil ***or criminal*** prosecution.

(4) Upon written request of any candidate or committee, the registry may issue advisory opinions establishing the policy of the registry in its application of the provisions of this chapter to a particular circumstance or set of circumstances with respect to that candidate or committee.

(5) The registry may adopt interpretive policies to further define or interpret the provisions of this chapter which shall be promulgated by administrative regulation.

Section 2. KRS 121.015 is amended to read as follows:

As used in ***this chapter, unless the context requires otherwise*** [~~KRS 121.110 to 121.200, and 121.990~~]:

(1) "Registry," means the Kentucky Registry of Election Finance;

(2) "Election," means any primary, regular or special election to fill vacancies;

(3) "Committee," means one (1) of the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to any state, county, city or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; or

(d) An executive committee of a political party;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by such groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious or educational;

(6) "Contribution," means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or political committee. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a political committee, candidate, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in excess of the contribution limit provided in KRS 121.150(5);

(b) Payment by any person other than the candidate, his authorized treasurer, or political committees, of compensation for the personal services of another person which are rendered to a candidate's campaign;

(c) Goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services;

(d) Payment by any person other than the candidate, his authorized treasurer, or political committees for any goods, or services utilized in a candidate's campaign;

(e) Expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election; or

(f) Notwithstanding foregoing meanings of "contributions," the word shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office.

Section 3. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer to act as his agent at the time and at the office with which he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds and deposit all contributions in that depository;

(b) Keep detailed and exact accounts of contributions in general and by name, address, age, if under legal voting age, and occupation where the contribution exceeds three hundred dollars ($300); the occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180(2)(a); and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and ***shall*** [~~must~~] comply with the reporting provisions of KRS ***121.180*** [~~121.015 and 121.110 to 121.200~~] and those adopted by the registry.

Section 4. KRS 121.170 is amended to read as follows:

(1) Any committee organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names and addresses and positions of the officers of the organization and designating the candidate or candidates or question it is organized to support or oppose on forms prescribed by the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) All provisions of KRS ***121.160*** [~~121.015 and 121.110 to 121.200~~] governing the duties and responsibilities of a candidate or campaign treasurer shall apply to a registered committee.

(3) The chairman of a committee and the campaign treasurer shall be separate persons.

Section 5. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend, or contracts to expend more than three thousand dollars ($3,000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total

amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) (a) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by subsections (2) and (8) of this section for the regular election in November.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by ***this section***

[~~KRS 121.015 and 121.110 to 121.200~~]. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain such funds to further the same political issue or to seek election to the same office.

Section 6. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who willfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) [~~Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.~~

~~(5)~~] Any corporation that willfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(5)/[~~(6)~~] Any person who willfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(6)[~~(7)~~] Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(7)[~~(8)~~] Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(8)[~~(9)~~] Any person who willfully violates any provision of KRS ***121.150 to 121.230*** [~~121.110 to 121.200~~] shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(9)[~~(10)~~] The nomination for, or election to, an office of any candidate who willfully violates any provision of KRS ***121.150 to 121.220*** [~~121.110 to 121.200~~], or whose campaign treasurer willfully violates any provision of KRS 121.110 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, or any candidate for the office sought to be declared vacant, or any qualified voter.

(10)[~~(11)~~] The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS ***121.056 and*** 121.110 to ***121.230***[~~121.200~~].

(11)[~~(12)~~] The Commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(12)[~~(13)~~] Any officeholder who willfully violates the provisions of KRS 121.150(11) shall be subject to removal from office by impeachment.

(13)[~~(14)~~] Prosecution for violation of any provision of this chapter shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(14)[~~(15)~~] Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(15)[~~(16)~~] Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16)[~~(17)~~] Any person who willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

(17)[~~(18)~~] Any person who violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(18)[~~(19)~~] Any person who fails to pay a civil penalty, assessed by the registry for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

Section 7. The following KRS section is repealed:

121.200 Reports to be kept four years — Admissibility as evidence.

The Committee on State Government reported **HB 12**, **HB 13**, **HB 14** with Committee Amendment attached thereto, **HB 108**, **HB 124**, **HB 128** with Committee Amendment attached thereto, and **HB 194** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.060 is amended to read as follows:

(1) The heads of statutory departments, with the approval of the secretary of the Finance and Administration Cabinet, may establish such subordinate positions as may be necessary and make appointments thereto, within the limitations of their appropriations, and removals therefrom. All appointees to such positions shall be under the supervision, direction and control of the heads of the respective departments and shall perform such duties as the heads of the departments prescribe. The appointment of all employees not otherwise provided for shall be made by the heads of the departments.

(2) The head of any department, with the approval of the secretary of the Finance and Administration Cabinet, may abolish unnecessary [~~offices and~~] positions, transfer officers and employees between positions, and change the duties, titles and compensation of existing [~~offices and~~] positions, subject to ***KRS 12.028 and*** any ***other*** provision of law in relation thereto.

Section 2. KRS 194.040 is amended to read as follows:

(1) [~~The secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and bureaus not established in 1974 Acts ch. 74, Art. VI, and shall organize the department into such offices, divisions, regions, districts, and other administrative units as the secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the department.~~

~~(2) The secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create such positions and employ the necessary personnel in such positions to enable the department to fulfill all functions assigned to it.~~] The secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

(2)[~~(3)~~] The secretary shall with the approval of the Governor elect coverage for employees of the department under the unemployment insurance law when required by federal law.

Section 3. KRS 216.593 is amended to read as follows:

The provisions of KRS 12.028 [~~and 194.040(1)~~] shall not apply to KRS 216.537 to 216.590.

Section 4. The following KRS sections are repealed:

15A.090 Internal organization.

174.035 Internal organization — Divisions.

224.10-050 Organization of cabinet.

HB 13, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.255 is amended to read as follows:

There is hereby established the office of secretary for each of the program cabinets listed in KRS 12.250. Each of these program cabinets shall be headed by a secretary appointed by the Governor, [~~and~~] each secretary shall be chairman of the related cabinet***, and each secretary shall be bonded as required by KRS 62.160.***

Section 2. KRS 12.260 is amended to read as follows:

There is hereby established in the office of secretary for public protection and regulation [~~:~~

~~(1)~~] a deputy secretary, appointed by the secretary pursuant to KRS 12.050, who shall be responsible for and engaged in operations of the cabinet and any other duties as assigned by the secretary, and in the absence of the secretary, have authority over cabinet affairs[~~; and~~

~~(2) The position of ombudsman. The ombudsman shall be appointed by the Governor on the advice of the secretary for public protection and regulation. The ombudsman shall provide a review of complaints by citizens with regard to services rendered by the agencies in the Cabinet for Public Protection and Regulation that cannot be resolved through normal administrative remedies. The files of the ombudsman shall be made available to the secretary in order to guide the correction of operational difficulties and other causes of citizen complaint~~].

Section 3. KRS 12.270 is amended to read as follows:

(1) The secretary of each cabinet shall:

(a) Be a member of the Governor's Cabinet and shall serve as the Governor's liaison in carrying out the responsibilities for overall direction and coordination of the departments, boards and commissions included in the related cabinet;

(b) Recommend to the Governor desired reorganization affecting the related cabinet;

(c) Advise the Governor on executive actions, legislative matters and other steps that may be desirable for better program service;

(d) Evaluate and pass upon all budget requests originated by the departments, boards and commissions within ***the*** [~~such~~] related cabinet;

(e) Advise the Governor on the appointment of commissioners and heads of units included in the related cabinet, except for those whose election or selection is otherwise provided for by law.

(2) Each secretary is authorized to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the related cabinet.

(3) Each secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the secretary to perform the functions of his office.

(4) Each secretary shall have exclusive control and direction over the administration of the related cabinet programs as required by law.

Section 4. KRS 42.012 is amended to read as follows:

The secretary ***of the Finance and Administration Cabinet*** shall be the chief financial officer of the state and the adviser of the Governor and the General Assembly in financial matters, and shall at all times protect the financial interests of the state. [~~He shall be responsible to the Governor for the administration of the cabinet.~~]

Section 5. KRS 42.013 is amended to read as follows:

(1) The office of the secretary of the Finance and Administration Cabinet [~~which is hereby created~~] shall include a deputy secretary who shall be appointed by the secretary with the approval of the Governor. The deputy secretary shall be responsible to and have such authority to sign for the secretary as the secretary designates in writing.

(2) [~~The secretary may employ and maintain, subject to the provisions of KRS Chapter 18A, such other supporting staff as he deems necessary to execute the functions, duties, and responsibilities of the cabinet.~~] The secretary may organize the office into such additional administrative units as he deems necessary to perform the functions and fulfill the duties of the cabinet***, subject to the provisions of KRS Chapter 12.***

(3) All appointments under this chapter to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the secretary and shall assist in the development of policy.

Section 6. KRS 131.020 is amended to read as follows:

(1) [~~The Revenue Cabinet shall be headed by the secretary of revenue, who shall be the executive officer and shall have sole charge of the administration of the cabinet, and shall perform all functions of the cabinet.~~

~~(2)~~] The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the secretary. The office of the secretary shall include such principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of his office;

(b) Department of Property Taxation. The Department of Property Taxation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuating the property of public service companies, and administering intangible taxes;

(c) Department of Tax Compliance. The Department of Tax Compliance shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, conducting audits, providing liaison with federal and state agencies, rendering taxpayer assistance, collecting delinquent taxes, and providing word processing services;

(d) Department of Administrative Services. The Department of Administrative Services shall be headed by a commissioner. The functions and duties of the department shall include reviewing audits, conducting conferences, issuing final rulings, administering taxpayer protests, establishing Revenue Cabinet tax policies, representing the Revenue Cabinet in legal and administrative actions, providing management analysis, preparing publications, and providing personnel and fiscal services.

(2)[~~(3)~~] The Revenue Cabinet shall be organized for administrative convenience into divisions in accordance with KRS Chapter 12.

(3)[~~(4)~~] The Revenue Cabinet shall fully cooperate with and make information on tax receipts available to the Finance and Administration Cabinet's Office of Revenue Estimating and Economic Analysis as necessary for the office to perform its duties.

Section 7. KRS 148.522 is amended to read as follows:

(1) [~~There is hereby created an agency of state government to be known as the tourism cabinet. The cabinet shall be headed by a secretary who shall be appointed by the Governor pursuant to the provisions of KRS 12.040. The secretary shall appoint such principal assistants and personnel pursuant to the provisions of KRS Chapters 12 and 18A as are necessary to enable him to perform the functions of his office.~~

~~(2)~~] The ***Tourism*** Cabinet shall consist of the office of the secretary, the Office of General Counsel, the Office of Administrative Services, the Department of Travel Development, the Department of Parks, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet***, subject to the provisions of KRS Chapter 12***.

(2)[~~(3)~~] The Office of General Counsel shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet and shall be directly responsible to the secretary.

(3)[~~(4)~~] The Department of Travel Development shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(4)[~~(5)~~] The Divisions of Tourism Services and Marketing and Advertising Services are created within the Department of Travel Development. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050. The Division of Tourism Services shall operate the highway welcome centers, conduct a hospitality education program for the tourism industry, coordinate the provision of mail and telephone information services to visitors, and generate sales revenue to the tourism industry of the Commonwealth through participation in trade shows and markets. The Division of Marketing and Advertising Services shall be responsible for state tourism advertising, the state matching fund tourism advertising program, the development and maintenance of a marketing and research data base on tourism, market survey programs and special studies related to the tourism industry.

Section 8. KRS 194.010 is amended to read as follows:

The Cabinet for Human Resources, [~~(~~]hereinafter referred to in this chapter as the "cabinet,"[~~) is hereby created as a new department of state government. The cabinet~~] shall be the primary state agency responsible for the development and operation of human services, health, income supplement, manpower training, employment and unemployment programs, facilities, and other related services, including all such federal programs in which the state elects to participate. The cabinet shall promote, supervise, and regulate local, public, and private programs, services, and facilities, which protect, develop and maintain the health, welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth.

Section 9. KRS 194.025 is amended to read as follows:

(1) The secretary ***for human resources*** and his designated representatives in the discharge of the duties of the secretary [~~for human resources~~] may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statutes.

(3) The secretary may enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of the cabinet.

Section 10. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 ***and KRS Chapter 13A***, have the power and authority to adopt, amend or rescind ***administrative*** [~~such rules and~~] regulations [~~as~~] he deems necessary or suitable for the proper administration of the functions of the cabinet or any division ***in the cabinet*** [~~therein~~], including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. [~~The secretary is authorized, subject to the provisions of KRS Chapters 12, 42 and 45, to appoint, fix the compensation and prescribe the duties and powers of such officers and employees as may be necessary in the performance of his duties.~~] The secretary may delegate to any [~~such~~] person appointed ***the*** [~~such~~] power and authority as he deems reasonable and proper for the effective administration of the cabinet.

Section 11. KRS 336.015 is amended to read as follows:

(1) [~~There is hereby created a cabinet of state government to be named the labor cabinet. The cabinet shall be headed by a secretary who shall be appointed by the Governor pursuant to KRS 12.040.~~] The secretary ***of labor*** shall have the duties, responsibilities, power and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, and all other matters except workers' compensation ***previously*** [~~heretofore~~] under the jurisdiction of the commissioner and Department of Labor.

(2) The Labor Cabinet shall consist of the offices of the secretary, General Counsel, Administrative Services and Labor-Management Relations, and the Departments of Workplace Standards and of Workers' Claims. The commissioner of the Department of Workplace Standards within the Labor Cabinet shall be under the direction and control of the secretary of the Labor Cabinet.

(3) The secretary may [~~appoint such personnel, including an ombudsman, as are necessary to perform the duties of the cabinet provided, however, the secretary of labor may~~] not appoint personnel necessary to perform the functions of the Department of Workers' Claims.

Section 12. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, [~~(~~]except the Governor and Lieutenant Governor[~~)~~], the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal ***of the bond*** [~~thereof~~] with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for ***economic*** development	10,000
Commissioner of Agriculture	10,000
Secretary for education and [~~the~~] humanities	10,000
Superintendent of Public Instruction	50,000
Auditor of Public Accounts	25,000
[~~Clerk of Court of Appeals~~	~~10,000~~]
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for human resources	20,000
Commissioner for environmental quality	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	***25,000***
Commissioner of social insurance	20,000
Member of the Public Service Commission	10,000

Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 13. The following KRS sections are repealed:

15A.010 Department of justice established — Secretary.

42.011 Finance and Administration cabinet created — Office of secretary.

174.010 Transportation cabinet established — Secretary.

194.020 Secretary as chief officer.

224.10-010 Natural resources and environmental protection cabinet — Secretary.

HB 14, AN ACT creating the Kentucky Peace Corps.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context indicates otherwise:

(1) "Allowance" means a bi-monthly payment granted volunteers during the term of their service. For the purposes of this Act, an allowance shall not be considered a salary or a wage.

(2) "Board" means the Kentucky Peace Corps Governing Board created by Section 2 of this Act.

(3) "Community/user" means the nonprofit entity or entities for which a task is being performed by a volunteer or volunteers.

(4) "Corps" means Kentucky Peace Corps created by Section 4 of this Act.

(5) "Director" means the chief administrative officer of the corps appointed pursuant to the provisions of Section 4 of this Act.

(6) "Employee" means "employee" as defined by KRS 18A.005.

(7) "Volunteer" means Kentucky Peace Corps volunteers selected pursuant to the provisions of Section 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) There shall be created by this Act the Kentucky Peace Corps Governing Board consisting of nine (9) members appointed by the Governor to staggered terms not to exceed four (4) years. Three (3) of these appointees shall be from 501c charitable corporations; one (1) shall represent local government; one (1) shall represent labor; one (1) shall represent the business community; and three (3) shall be employed by state agencies performing work related to the corps' purposes.

(2) The board shall annually elect one (1) of its members chairman and one (1) of its members vice-chairman.

(3) The board shall meet at such time and place as shall be specified by the call of its chairman. At least one (1) meeting shall be held each month.

(4) All meetings of the board shall be open to the public as provided in KRS 61.810 to 61.850.

(5) At least seven (7) days in advance of each regular meeting of the board, notice shall be given in writing to each member by the director, which shall include, at the least, a tentative agenda. Five (5) members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.

(6) All records of the board shall be public records and open to public inspection as provided in KRS 61.872 to 61.884.

(7) Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 and KRS 18A.200 for actual and necessary expenses incurred in the performance of their duties as prescribed by this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Subject to the provisions of this Act, and KRS Chapter 13A, it shall be the duty of the board to:

(1) Promulgate administrative regulations to establish a selection process for:

(a) Volunteers which shall include, but not be limited to, the testing of applicants for emotional stability by a mental health professional licensed in Kentucky for independent practice;

(b) Projects to be undertaken and completed by volunteers and a method of applying for these projects. The specific purpose or goal of the corps outlined in Section 5 of this Act shall be taken into consideration when applying this methodology.

(2) Initial administrative regulations promulgated under the provisions of this Act shall be filed with the Legislative Research Commission within ninety (90) days of the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Among its other duties, the board shall also be required to:

(1) Govern, or exercise authority, over the corps;

(2) Appoint a director to function as chief administrative officer of the corps;

(3) Make annual reports to the Governor and the Legislative Research Commission, and biennial reports to the Kentucky General Assembly;

(4) Advise the Governor and the director with respect to projects assigned to and undertaken by the corps;

(5) Consider and act on any and all matters referred to it by the director; and

(6) Investigate any irregularities reported by the public.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) There shall be created by this Act a Kentucky Peace Corps, headed by a director appointed by the board created by Section 2 of this Act.

(2) The purpose of the corps is to:

(a) Create a volunteer, domestic service corps to promote a mechanism for selfless service for those who wish to improve the lives of other Kentuckians, raise the standard of living, enhance self actualization, and create a more conducive environment for future generations of Kentuckians.

(b) Assist the Commonwealth of Kentucky through targeted activities which promote the public good and achieve measurable or visible improvement in the environment, public service, individual productivity, education, health, and humanitarian endeavors.

(c) Identify and utilize the skills, knowledge and expertise of dedicated, well-trained volunteers who have met stringent selection criteria and have effectively demonstrated their commitment to the Kentucky Peace Corps.

(d) Promote a cross-fertilization of ideas, skills and concepts.

(3) The director, authorized by subsection (1) of this section, shall be a graduate of an accredited college or university and have at least five (5) years' experience in administration or in related fields. Additional education may be substituted for the required experience on a year-to-year basis. Additional experience may be substituted for the required education on a year-to-year basis, provided the experience level is deemed appropriate by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of the director to:

(a) Serve as chief administrative officer to the corps and secretary to the board, and to provide whatever help and technical assistance as deemed necessary by the board to the board.

(b) Hire, as provided in the budget enacted by the Kentucky General Assembly and other state and federal laws applicable to state personnel, whatever employees are deemed necessary by the board to carry out the provisions of this Act, provided the number of employees does not exceed twelve (12).

(c) Prepare the budget request for approval by the board in the form and manner required by applicable state law. For the purposes of KRS Chapter 48, the board and the corps shall be considered a budget unit.

(d) Develop a handbook for volunteers for submission to and approval of the board prior to printing and distribution.

(e) Develop a handbook for community/users for submission to and approval of the board prior to printing and distribution.

(f) Prepare program status reports on a monthly basis.

(2) The director, on behalf of the corps, and with the permission of the board, may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the corps, or volunteer organizations.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 64.610 through 64.470, the salaries of the director and other employees of the corps, shall be determined by order of the board, provided these salaries do not exceed the limitations established by the Constitution of the Commonwealth of Kentucky, and limitations established by the Executive Budget enacted by the Kentucky General Assembly.

(2) All employees of the corps, including its director, shall be deemed unclassified employees of the Executive Department, covered by the provisions of KRS Chapter 18A relating to unclassified employees.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Volunteers shall be at least eighteen (18) years of age.

(2) Volunteers shall not serve within a seventy-five mile radius of their legal or voting residence.

(3) Volunteers shall not be considered employees of the board or the Commonwealth of Kentucky; however, they shall be granted:

(a) An allowance which, at a minimum, shall equal the federal minimum wage;

(b) Appeal rights pursuant to the provisions of Section 9 of this Act;

(c) Relocation benefits;

(d) Health benefits;

(e) Social security benefits; and

(f) Free tuition for one full-time semester at a state-supported Kentucky college or university for every twelve (12) months' service completed in the corps.

(4) Volunteers may receive reimbursement for travel, provided the reimbursement does not exceed the limitations established for Executive Department employees either by law, or administrative regulation.

(5) Notwithstanding the provisions of the Kentucky Revised Statutes, volunteers shall not be eligible to receive:

(a) Dental benefits;

(b) Disability insurance;

(c) Life insurance;

(d) Reimbursement for meals;

(e) Unemployment insurance; or

(f) Workers' Compensation.

(6) All volunteers shall be expected to bring with them a minimum amount of tools to perform their tasks, but the community/user is expected to supply all other items, exclusive of clothing and other personal hygiene and grooming items.

(7) Volunteers shall agree in writing to:

(a) Cooperate with corps personnel with whom he is working in their common effort, and to abide by the policies and procedures set forth in the handbook and administrative regulations required by Section 3 of this Act, and other applicable state and federal laws.

(b) Hold the Kentucky Peace Corps harmless and to release it from any and all claims arising out of or in connection with any agreement he signs upon volunteering, excepting only that the corps shall remain liable for any harm directly attributable to its gross negligence.

(c) Perform the work assigned to him in an acceptable manner to the corps, or its representatives.

(d) Not engage in any regular work which carries monetary compensation and which falls outside the scope of the assigned corps duties. Any exceptions to this provision shall be authorized in writing by the director, and approved by the board.

(e) Serve the number of months, not to exceed two (2) years, deemed appropriate by the board and director to complete the task assigned. The board may extend the volunteer's contract an additional two (2) years provided: the volunteer is willing, and provided the volunteer has a special skill or expertise needed by the corps. Conversely, the board may reduce the number of months of the contract in the event of hardship.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Volunteers shall be disciplined or dismissed for cause only.

(2) In the event any volunteer is disciplined or dismissed for cause, he may appeal, within thirty (30) days, to Franklin Circuit Court for reinstatement.

(3) If reinstatement is ordered by the Franklin Circuit Court, the volunteer shall be returned to his job immediately and made whole, provided the order is not appealed to a higher court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Volunteers who become contributing members of any state administered retirement system may purchase service credit for time served in the corps as provided in KRS 61.552 and 161.515.

Section 11. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employee of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer; [~~and~~]

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission***; and***

(z) Employees of the Kentucky Peace Corps.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 12. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by

the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the system actuary. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Teacher aides, secretaries, custodial personnel, and cafeteria employees of a school district may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on an annual or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment shall be by lump sum, except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the state-administered retirement systems who has completed service as a volunteer in the Kentucky Peace Corps, created by Section 5 of this Act, may purchase service credit for the time served in the corps by making delayed contribution payments.

Section 13. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after January 1, 1984. In the event this service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members

shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by Section 5 of this Act, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit.

Section 14. (1) The board shall issue administrative regulations within ninety (90) days of the effective date of this Act.

(2) The initial selection of volunteers shall be completed no later than six (6) months after the effective date of this Act.

(3) Initial projects to which the volunteers shall be assigned shall be approved no later than six (6) months of the effective date of this Act.

(4) Initial training of volunteers shall be completed no later than nine (9) months after the effective date of this Act.

(5) Initial field assignments of volunteers shall be made no later than one (1) year after the effective date of this Act. These initial volunteers shall not exceed forty (40).

The Committee Amendment No. 1 to **HB 14** is as follows:

Amend printed copy **HB 14** on page 4, by deleting line 2 in its entirety and inserting in lieu thereof the words "***the hiring ofhe director.***"; and

On page 4, line 24, by adding after the period the words "***This director shall not be hired before July l, 1993.***"; and

On page 8, line 7, by deleting the word "***and***"; and

On line 10, by deleting the period and adding the word "***; and***"; and

Between lines 10 and 11, by adding the words "***(g) Workers' Compensation.***"; and

On line 21, by adding "***or***" after the semicolon; and

On line 22, by deleting "***; or***" and inserting in lieu thereof a period; and

On page 31, by deleting Section 14 in its entirety and inserting in lieu thereof the following:

"Section 14. (1) The director shall not be hired before July, 1993.

(2) The board shall issue administrative regulations within ninety (90) days of the hiring of the director.

(3) The initial selection of volunteers shall be completed no later than six (6) months after the hiring of the director.

(4) Initial training of volunteers shall be completed within nine (9) months of their selection.

(5) Initial field assignments of volunteers shall be made no later than one (1) year after their selection. These initial volunteers shall not exceed forty (40).

(6) Expenditures from state sources of revenue shall not exceed $10,000 for FY 1992-93. This provision shall not be construed as making an appropriation."

HB 108, AN ACT relating to appointments to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations. Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the constitution. Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted.

(2) ***Upon the expiration of a term of a board or commission member appointed by the Governor, the Governor shall either reappoint the member or appoint a new member within sixty (60) days of the expiration of the term. If the Governor does not take the actions required by this subsection, the term of the member shall continue for a full new statutory term, and all actions taken by that member shall be deemed to be legally valid.***

(3) When a new administrative board or commission is created by enactment of legislation by the General Assembly, the Governor shall make the appointment of initial board members within sixty (60) days of the effective date of the legislation. If appointments are not made pursuant to this subsection, the Lieutenant Governor shall make the necessary appointments.

(4) When a board, commission or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

HB 124, AN ACT relating to state veterans' cemeteries and declaring an emergency.

WHEREAS, the United States Department of Veterans Affairs has determined that no additional national veterans cemeteries will be constructed in Kentucky; and

WHEREAS, the General Assembly is desirous of establishing a lasting and perpetual place for Kentucky's veterans to rest with dignity and honor and has determined the establishment of state veterans' cemeteries to be in the best interest of the veterans of the Commonwealth; and

WHEREAS, it is the purpose of this Act to authorize the establishment of state veterans' cemeteries, to promote their construction or renovation, and to assign administrative responsibility for their planning and operation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Military Affairs shall establish and maintain state veterans' cemeteries in the Commonwealth for the purpose of providing for the interment of Kentucky veterans of the United States Armed Forces and for their next of kin, as determined by the department.

(2) The Kentucky state veterans' cemeteries shall be under the administrative authority and control of the Department of Military Affairs. The Department of Military Affairs may promulgate administrative regulations necessary to operate the cemeteries in compliance with applicable state and federal statutes and regulations.

(3) The Department of Military Affairs is authorized to seek federal and private funding for the construction, renovation, and operation of Kentucky state veterans' cemeteries.

Section 2. The United States Department of Veterans Affairs has determined that no additional national veterans' cemeteries will be constructed in Kentucky. Federal matching funds will be available, on a limited basis, to states who establish state veterans cemetery programs, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 128, AN ACT relating to the Legislative Program Review and Investigations Committee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

As used in KRS 6.905 to 6.935:

(1) "Committee" means the Legislative Program Review and Investigations Committee;

(2) "Investigation" means an inquiry into possible acts of impropriety in the use of public funds or performance of public duty by a state appointed or elected agency official, employee or contractor;

(3) "Review" means an noninvestigative study of the operation, accomplishments, management, or activities of an agency or program and includes procedures such as fiscal audit, program/performance evaluation, program audit, management audit, policy analysis, or other related terms;

(4) "Study" means any investigation or review initiated or undertaken by the committee; and

(5) "State agency" means:

(a) Any entity, including multijurisdictional organization or interagency entities, created by the Constitution of Kentucky, by an act of the General Assembly, or by any of the branches of state government or any of its subdivisions, instrumentalities, or affiliated organizations, or by any employee or official acting in his official capacity;

(b) Any entity which receives any part of its funding or resources from state tax dollars, from funds or resources entrusted to the Commonwealth from other sources, or from fines, fees, licensing, or penalties authorized by state statute or administrative regulation;

(c) Any entity which is federally funded and for which the Commonwealth of Kentucky is responsible for the oversight or expenditures of the federal resources;

(d) That portion of a public or private entity which receives or has received resources, such as funds, equipment, property, supplies, or services, directly or indirectly from the Commonwealth of Kentucky; and

(e) That portion of a public or private entity related to the delivery of services to or for the Commonwealth of Kentucky or an entity of the Commonwealth as defined in paragraph (a), (b), (c), or (d) of this subsection.

Section 2. KRS 6.905 is amended to read as follows:

(1) There is hereby created a Legislative Program Review and Investigations Committee which shall be a permanent standing committee of the General Assembly, consisting of eight (8) members of the Senate, six (6) of whom shall be appointed by the President Pro Tempore and two (2) of whom shall be appointed by the Minority Leader of the Senate, and eight (8) members of the House of Representatives, six (6) of whom shall be appointed by the Speaker and two (2) of whom shall be appointed by the Minority Leader of the House of Representatives. At least one (1) appointee by each appointive authority shall be a member of the Senate or House Standing Committee on Appropriations and Revenue. The appointments shall be made within

seven (7) legislative days of the beginning of each regular [~~or organizational~~] session of the General Assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled ***within sixty (60) days of occurrence*** in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman, ***vice chairman,*** and other officers as it may deem necessary from among its membership. The chairman ***and vice chairman shall be from different chambers of the General Assembly and shall serve a term of two (2) years; the chamber of origin for the chairman and vice chairman shall alternate between the House of Representatives and the Senate*** [~~shall serve a term of one (1) year in the biennium in which the committee appointments are made~~]. ***Officers shall be selected at the first meeting of the committee following the end of the regular session.*** [~~Eligibility for the position of committee chairman shall alternate annually between appointees that are members of the Senate and appointees that are members of the House of Representatives.~~] A majority of the membership shall constitute a quorum and all actions authorizing ***a study*** [~~an investigation~~], dropping ***a study*** [~~an investigation~~], or adopting a final report on any subject under ***study*** [~~an investigation~~] shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.

(3) When ***a study*** [~~an evaluation or investigation~~] is instituted***, the committee shall request that the Legislative Research Commission appoint*** [~~upon the request of a legislative committee,~~] the chairman and a ranking minority member***, or their designees,*** of ***the*** [~~that~~] committee ***of relevant jurisdiction to*** [~~shall~~] serve as nonvoting ex officio members of the [~~Legislative Program Review and Investigations~~] committee ***in activities related to the relevant study*** [~~during the course of such evaluation or investigation~~]. If the legislative committee that requested the ***study*** [~~evaluation or investigation~~] is a standing committee of one (1) of the houses of the General Assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the ***study*** [~~evaluation or investigation~~] is an interim joint committee of the Legislative Research Commission, the ranking minority member shall be:

(a) A minority party member of the House of Representatives appointed by the House Minority Leader, if the chairman of the interim joint committee is a member of the Senate; or

(b) A minority party member of the Senate appointed by the Senate Minority Leader, if the chairman of the interim joint committee is a member of the House of Representatives.

(4) Each regular and ex-officio member of the [~~Legislative Program Review and Investigations~~] committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the Legislative Research Commission under KRS 7.090(2).

Section 3. KRS 6.910 is amended to read as follows:

The [~~Legislative Program Review and Investigations~~] committee shall have the power and duty to:

(1) Make ***studies*** [~~performance reviews~~] of ***the*** operations of state agencies to ascertain that sums appropriated have been, or are being, expended for the purposes for which such appropriations were made and to evaluate the effectiveness of programs in accomplishing legislative intent;

(2) Study on a continuing basis the operations, practices, and duties of state agencies, as they relate to efficiency in the utilization of space, personnel, equipment, and facilities;

(3) Make such special studies and reports of the operations and functions of state agencies as it deems appropriate and as may be requested by the General Assembly;

(4) Make such reports on its findings and recommendations at such time and in such manner as the committee deems proper, submitting such reports to the agencies concerned, to the Governor and to the General Assembly. Such reports shall relate to the following matters:

(a) Whether any state agency is carrying out only those activities or programs authorized by ***legal or administrative action*** [~~the General Assembly~~]; or

(b) Whether the programs and activities of a state agency, or a particular program or activity is being operated efficiently, effectively***, or*** [~~and~~] in accordance with legislative ***or administrative*** intent; or

(c) Whether there is a need for change in any authorized activity or program of a state agency; or

(d) Whether any reorganization of a state agency, or group of state agencies, is needed or justified to accomplish the results of programs or activities [~~authorized by the General Assembly~~]; or

(e) Any combination of the purposes specified in this or any other section of KRS 6.905 to 6.935.

(5) ***Information obtained or prepared by the committee or its staff shall be treated as confidential working papers subject to release according to the operating rules and procedures adopted by the committee. The committee may close certain planning meetings and project briefings to protect research and to allow the exchange of confidential materials. Any information protected by confidentiality agreements or federal, state, or local laws shall not be subject to public release.***

(6) Consider and act on requests for ***studies*** [~~program reviews~~] submitted by legislators, legislative committees, elected officials of state government, state cabinet secretaries, and department and agency heads. Requests shall be submitted in writing and shall state reasons to support the request. The decision of the committee to grant or deny such a request shall be final;

(7)[~~(6)~~] Conduct ***studies*** [~~investigations~~] directed by joint resolution of the General Assembly;

(8)[~~(7)~~] When the General Assembly is not in session, conduct ***studies*** [~~investigations~~]:

(a) Initiated by a majority vote of the [~~Program Review and Investigations~~] committee; or

(b) Requested by the Legislative Research Commission or an interim joint committee thereof. In the event two (2) or more ***studies*** [~~investigations~~] are requested, the priority among them shall be determined by the [~~Legislative Program Review and Investigations~~] committee.

(9)[~~(8)~~] The [~~Legislative Program Review and Investigations~~] committee shall notify the Legislative Research Commission periodically of the committee's activities, and at any time a new ***study*** [~~investigation~~] is to commence. Any ***study*** [~~investigation~~] conducted by the [~~Legislative Program Review and Investigations~~] committee shall be deemed within its lawful duties and jurisdiction unless notified to the contrary by the Legislative Research Commission.

Section 4. KRS 6.915 is amended to read as follows:

(1) All state agencies and their staff and employees shall provide the committee with necessary information for the performance of its duties, with any assistance needed to properly conduct the research or study, and with timely access in order to conduct the following functions, necessary to conduct any duly authorized study:

(a) Reviewing, copying, or inspecting any public or confidential information;

(b) Interviewing personnel; and

(c) Inspecting or observing facilities, equipment, or operations.

(2) Adequate facilities shall be provided for on-site research at the agency. Timely access to agency records and data shall be provided during normal working hours, without any restrictions or conditions imposed by the agency, and at the time and in the form requested by the committee or its staff [~~All agencies of the state, their staff and employees shall provide the Legislative Program Review and Investigations Committee with necessary information for the performance of its duties, and shall afford the committee and its staff ample opportunity to observe agency operations~~].

Section 5. KRS 6.920 is amended to read as follows:

(1) The [~~Legislative Program Review and Investigations~~] committee, while in the discharge of its official duties, shall have the following additional powers:

(a) To subpoena and examine witnesses; to require the appearance of any person and the production of any paper or document; to order the appearance of any person for the purpose of producing any paper or document; and to issue all process necessary to compel such appearance or production. When such process has been served, the committee may compel obedience thereto by the attachment of the person, papers or records subpoenaed;

(b) If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the committee desires information pertaining to the studies in which it is engaged, the Franklin

Circuit Court, on application of the committee, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify therein;

(c) To administer oaths to witnesses appearing before the committee when, by a majority vote, the committee deems the administration of an oath necessary and advisable as provided by law; and

(d) To determine that a witness has perjured himself by testifying falsely before the committee, and to institute appropriate penal proceedings as provided by law.

(2) Each witness who appears before the committee by its order, other than officer or employee of the state, shall be entitled to the fees and mileage provided for witnesses in civil cases in Circuit Courts, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the committee.

Section 6. KRS 6.925 is amended to read as follows:

When making a ***study the*** [~~performance evaluation or an expenditure review, the Legislative Program Review and Investigations~~] committee may require that testimony be given under oath, which may be administered by the chairman or by any person authorized by law to administer oaths. The committee may require that such testimony or any proceedings of the committee be recorded by an official court reporter or other competent person, under oath. The transcript, when written, certified and approved by the recorder and transcriber as being the direct transcript of the testimony, or proceedings, shall be prima facie a correct statement of said testimony or proceedings provided that the recorder and transcriber's signature to such certificate is duly acknowledged by him before a notary public or a judicial official of the Commonwealth.

Section 7. KRS 6.930 is amended to read as follows:

(1) In any instance in which a ***study*** [~~program review~~] conducted by or for the [~~Legislative Program Review and Investigations~~] committee cites inadequate operating or administrative systems controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee shall report such deficiencies and its recommendations for their correction to the head of the state agency or program to which the report pertains.

(2) The head of the state agency or program to which the report pertains shall give affirmative consideration to the report by:

(a) Adopting the committee's recommendations and reporting his action to the committee; or

(b) Otherwise correcting the deficiency and reporting his action, and the reasons for not adopting the committee's recommendations, to the committee.

(3) If no corrective action is taken by the head of a state agency or program in response to a committee report under subsections (1) and (2) of this section, or if the committee deems the corrective action taken to be unsuitable, the committee shall report the matter to the General Assembly, together with its recommendations.

(4) The committee shall report the results of each of its ***studies*** [~~investigations~~], including the committee's recommendations for any further action, to the General Assembly.

The Committee Amendment No. 1 to **HB 128** is as follows:

Amend printed copy of **HB 128** on page 1, by deleting lines 6 through 9 in their entirety and inserting in lieu thereof the following:

"***(2) ''Investigation'' means an inquiry into possible acts of impropriety in the use of public funds or performance of public duty by an elected or appointed state official or a state employee or contractor***"; and

On page 1, line 10, by deleting the word "***an***" and inserting in lieu thereof the word "***a***"; and

On page 5, line 16, by adding, before the word "ex officio", the word "***nonvoting***"; and

On page 8, by deleting line 20 in its entirety and inserting in lieu thereof the words "***(1) Employees of state agencies***".

HB 194, AN ACT relating to capital planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7A.150 is amended to read as follows:

The Legislative Research Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of KRS Chapter 7A. Staff and operating costs of the Capital Planning Advisory Board shall be provided from the budget of the Legislative Research Commission [~~The board may employ and fix the compensation of an executive director who shall be its secretary and principal executive officer. The board may also employ any other stenographic, clerical, and expert assistance, and incur any traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties and as may be within the limits of funds appropriated or otherwise made available to it~~].

Section 2. KRS 42.027 is amended to read as follows:

(1) The Department for Facilities Management established in the Finance and Administration Cabinet by KRS 42.014 shall be generally responsible for performance of the cabinet's functions and duties as outlined in KRS Chapters 45, 45A and 56 with relation to the management and administration of the State Capital Construction Program, including without limitation to the generality thereof, the procurement of necessary consulting services related to capital construction and building renovation projects, construction services, and supervision of building construction projects, and for the maintenance and operation of the state government's telecommunications systems, real property management functions and physical plant management functions. The department shall be divided for administrative and operational purposes into a division of engineering, a division of contracting and administration, a division of telecommunications, a division of physical plant, and a division of real property, each of which shall be headed by a director appointed by the secretary, subject to the approval of the Governor and responsible to the commissioner. The commissioner shall provide for the distribution of the department's work among the divisions within the department.

(2) In conjunction with the responsibilities listed in subsection (1) of this section, the Department for Facilities Management shall have the following duties:

(a) Establish policies to ensure efficient utilization of state property by:

1. Requiring the development of guidelines which set forth space standards and criteria for determining the space needs of state agencies, and maintaining an inventory which tracks the agencies' compliance with those standards and criteria; and

2. Requiring certification of compliance, or justification for exceptions, as a criterion for approval of additional space.

(b) Establish policies to ensure effective planning for state facilities by:

1. Developing a long-range plan for the Frankfort area, with priority on reducing dependency on leased space and encouraging the consolidation of agencies' central offices into single locations, and shared offices for agencies with similar functions; and

2. Developing long-range plans for housing state agencies in metropolitan areas, with priority on centralization of services and coordination of service delivery systems; and

3. Encouraging executive branch agencies to expand long-range planning efforts, consistent with the policies of the Capital Planning Advisory Board; and

4. Supporting long-range planning for a statewide information technology infrastructure to more efficiently deliver state government services.

(c) Establish priorities to allow least-cost financing of state facilities by:

1. Initiating polices which authorize the state to use innovative methods to lease, purchase, or construct necessary facilities; and

2. Requiring cost analysis to determine the most effective method of meeting space needs, with consideration for ongoing operations and initial acquisition.

(3) The Department for Facilities Management shall develop plans for the placement of computing and communications equipment in all facilities owned or leased by state government. As part of this planning process, the department shall:

(a) Provide adequate site preparation in all state-owned facilities, and require the same of those from whom the state leases space, as part of the lease agreement;

(b) Fund a minimum level of site preparation for computing and communications in each new state-owned facility; and

(c) As new office sites are developed, or existing ones undergo renovation, consider the placement of shareable high-cost, high-value facilities at strategic locations throughout the state. These facilities may include video teleconference centers, optical scanning and storage services, and gateways to high-speed communication networks.

The Committee on Health and Welfare reported **HB 117** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 117, AN ACT relating to blood donations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person seventeen (17) years of age or older may donate blood in a voluntary blood program, which is not operated for profit, without consent of the person's parent or guardian. Before soliciting blood donations from students in high schools, joint vocational schools, or technical schools, a blood program, in cooperation with school authorities, shall make reasonable efforts to notify the parents or guardians of the students that the students will be requested to donate blood.

Calendar

HB 15, **HB 17**, **HB 19**, **HB 82**, **HB 134**, **HB 149**, **HB 181**, **HB 111**, **HCR 10** and **HB 6** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 149**, by Representative Callahan:

Amend printed copy of **HB 149/HCS** on page 5, line 2, by deleting the new language, and the open bracket and strikethrough from "[~~KRS~~";

On page 5, line 3, by deleting the closed bracket and strikethrough from "~~164.010~~]";

Beginning on page 18, line 15, by deleting Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 in their entirety;

On page 17, line 21, by inserting after "***(5)***" "***When a term expires or a vacancy occurs,***" and by changing "***The***" to "***the***";

On page 17, lines 24 and 25, by changing "***Sections 6, 7, and 8 of this Act***" to "***KRS 164.130, 164.320, and 164.820***";

On page 17, line 26, by changing "***Section 9 of this Act***" to "***KRS 164.010***"

On page 18, line 2, by changing "***Section 8***" to "***KRS 164.820***"

On page 33, after line 5, by adding the following:

"Section 6. Whereas it is critical that Kentucky higher education governing boards be made up of strong, well-qualified leaders selected through a screening process, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Representative Stumbo moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 6**, **HB 17**, **HB 19**, **HB 82**, **HB 111**, **HB 149** and **HCR 10** have been posted for passage in the Orders of the Day for January 17, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 15**, **HB 134**, **HB 181**

Representative Stumbo moved that the rules be suspended to introduce guests and grant floor privileges to Michele Green and Mary Crisp. Agreed.

Orders of the Day

HB 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 26** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 16, 1992 roll call on **HB 26** - Appendix.)

HB 26 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 26** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 61** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 16, 1992 roll call on **HB 61** - Appendix.)

HB 61 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 61** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 146 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 146** be passed.

On the roll call the vote was: Yeas 90, Nays 2. (See January 16, 1992 roll call on **HB 146** - Appendix.)

HB 146 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 146** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 154 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 154** be passed.

On the roll call the vote was: Yeas 83, Nays 7. (See January 16, 1992 roll call on **HB 154** - Appendix.)

HB 154 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 154** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Representative Williams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that his vote be changed from "nay" to "yea" on **HB 24**. Agreed.

Representative McElroy moved that **HB 33** be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 288, by Representative Heleringer: AN ACT relating to motor carriers.

HB 289, by Representatives Farley, Cyrus, Napier, Strong, Jensen, Zimmerman, Altman, Williams, Walker, Nunn, Keith, Riggs, Arnold and Bryant: AN ACT relating to inheritance and estate taxes.

HB 290, by Representative Ridley: AN ACT proposing amendments to Sections 170, 171, and 181 of the Constitution of Kentucky relating to taxation.

HB 291, by Representatives B.R. Smith and Farrow: AN ACT relating to criminal trespass.

HB 292, by Representative Farrow: AN ACT relating to crimes and punishments.

HB 293, by Representatives Reinhardt, Crupper, Gedling, Sanders, Arnold, Kerr, Turner, Todd, Nunn, Mullinix, Zimmerman, Lyne, B. R. Smith, Napier, Walker, Williams, Farrow, Gee, Bruce, McElroy and Coleman: AN ACT relating to property taxes.

Motions, Petitions and Communications (Continued)

Representative Mason moved that **HB 95** be withdrawn. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism Development and Energy: **HB 200, HB 161**

Labor and Industry: **HB 215**

Counties and Special Districts: **HB 84, HB 88**

Business Organizations and Professions: **HB 265**

Motions, Petitions and Communications (Continued)

Representative Stumbo announced that when the House adjourns on January 17, 1992, it does so until 4:00 p.m. January 21, 1992.

Representative Butler moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Butler moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 88, Representatives Bronger, Butler, Burch, Casebier, Riggs, Riner, Wayne; **HB 6** and **HB 124**, Representative Casebier; **HB 146**, Representatives Callahan, Ackerson; **HB 249**, Representative Altman; **HB 253**, Representative Lile.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 149**, by Representative Mack:

Amend printed copy of **HB 149/HCS** on page 15, line 12, after "***(1)***" and before the word "***There***" insert "***(a)***"; and

On page 16, after line 3 and before line 4 insert the following:

"***(b) Each member shall have the following qualifications at the time of appointment and throughout his term:***

1. The member shall not be an employee of the state of Kentucky;

2. The member shall have no direct or indirect business affiliation with any state agency or state university;

3. The member shall have completed at least the twelfth grade or been issued a GED certificate;

4. The member shall not have any relatives as defined in KRS 160.180 employed by a public institution of higher learning; and

5. The member shall have been a resident of Kentucky for at least three (3) years.".

Floor Amendment No. 3 to the Committee Substitute to **HB 149**, by Representative Mack:

Amend printed copy of **HB 149/HCS** on page 32, line 15 after "Section 16." and before "Effective" insert "(1)";

On page 32, after line 23 and before line 24 insert the following:

"(2)(a) Effective July 1, 1992, all terms of the present House of Representative and Senate members serving in the General Assembly shall be terminated.

(b) The terms of the House of Representative members shall be terminated on July 1, 1992, but the members shall continue to serve until their successors, who are elected at the next regular election, assume office.

(c) The terms of the Senators elected in 1988 shall expire July 1, 1992, but the Senate members shall continue to serve until their successors, who are elected at the next regular election, assume office.

(d) The terms of Senators elected in 1990 shall expire on July 1, 1992, but members shall continue to serve until December 31, 1992, at which time a vacancy shall exist and a special election shall be held pursuant to KRS 118.730. The terms of the successors elected in that special election shall expire December 31, 1994.

(e) Nothing in this section shall prohibit the General Assembly members terminated by this Act from seeking nomination or election at the next scheduled election.".

Floor Amendment No. 4 to the Committee Substitute to **HB 149**, by Representative Mack:

Amend printed copy of **HB 149/HCS** on page 7, lines 6 and 7, delete all new language; and

On page 10, lines 20 and 21, delete all new language; and

On page 12, line 18, delete all new language; and

On page 19, line 14 delete "***outside***" and insert "***in***" in lieu thereof; and

On page 22, line 21, delete "***out-of-state***" and insert "***in-state***" in lieu thereof; and

On page 26, line 10, delete "***outside***" and insert "***in***" in lieu thereof; and

On page 27, line 21, delete "***may include alumni of Kentucky***"; and

On page 27, line 22, delete the line in its entirety; and

On page 27, line 23, delete "***the Commonwealth and***".

Floor Amendment No. 5 to the Committee Substitute to **HB 149**, by Representative Mack:

Amend printed copy of **HB 149/HCS** on page 5, line 12, place the opening bracket after "as" and remove strikethroughs from "as"; and

On page 7, line 1 to page 15, line 9, delete lines, in their entirety; and

On page 15, line 10, delete "5" and insert "2" in lieu thereof; and

On page 16, line 22, delete "***Two (2) members***" and place "***One (1) membe***r" in lieu thereof; and

On page 16, line 23, delete "***four (4)***" and insert "***three (3)***" in lieu thereof; and

On page 16, line 24 remove "***and***" and place "***3. Two (2) members shall serve a five (5) year term; and***"; in lieu thereof; and

On page 16, line 25, delete "***3. Three (3)***" and insert "***4. Two (2)***" in lieu thereof; and

On page 17, line 3, remove "***April 14***" and insert "***June 30***" in lieu thereof;

On page 17, line 4, remove "***April***" and insert "***July***" in lieu thereof;

On page 17, lines 5 to 12, delete lines in their entirety and insert "***1.***" in lieu thereof;

On page 17, line 13, delete "***be confirmed.***"

On page 17, line 21, after ***(5)*** insert "***Beginning January 1, 1993,***"; and

On page 17, line 24, delete "***Sections 6, 7,***"; and insert "***KRS 164.130, 164.320 and 164.820***"; and

On page 17, line 25, delete "***and 8 of this Act***"; and

On page 17, line 26, delete "***Section 9 of this Act*** " and insert "***KRS 164.010***" in lieu thereof; and

On page 18, line 2, delete "***Section 8***" and insert "***KRS 164.820***" in lieu thereof; and

On page 18, line 15 to page 33, line 5, delete lines in their entirety.

Announcements

The following meetings were announced:

Appropriations and Revenue, 10:00 a.m., January 21, 1992.

Cities, 2:00 p.m., January 21, 1992.

Judiciary, 2:00 p.m., January 21, 1992.

Committee Chairmen upon adjournment today in Room 327 of the Capitol.

The following meeting was cancelled:

Banking and Insurance, 10:00 a.m., January 21, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, January 17, 1992.

On the roll call the vote was yeas 80—Ackerson, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Scorsone, Sheehan, B. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Casebier, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, JANUARY 17, 1992

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Charles C. Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bryant, Gregory, Noe and Overstreet.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 16, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 294, by Representatives Zimmerman, Keith, Bryant, Toby, Reinhardt, Mullinix, Burch and Todd: AN ACT relating to solid waste.

HB 295, by Representatives Sheehan, Jones, Donnermeyer, Callahan, Lewis, Castleman, Rapier, Nunn, Adkins, R. Smith, Gedling, Bentley, Hourigan, Arnold, Bronger and McElroy: AN ACT relating to health insurance for public employees.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 293, HB 289**

Elections and Constitutional Amendments: **HB 290**

Judiciary: **HB 291, HB 292**

Transportation: **HB 288**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Cities: **HB 234, HB 27, HB 28, HB 29, HB 7, HB 63, HB 64, HB 65, HB 66, HB 67**

Calendar

HB 48, HB 50, HB 51, HB 52, HB 53, HB 54, HB 55, HB 56, HB 57, HB 12, HB 13, HB 14, HB 108, HB 124, HB 128, HB 194 and **HB 117** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 1 to **HB 55**, by Representative Sheehan:

Amend printed copy of **HB 55** on page 2, line 6, by deleting "***fifty***"; and on line 7, by deleting the brackets around and strikethroughs from "twenty-five", and by deleting "***($50)***" and by deleting the brackets around and strikethroughs from "($25)"; and

On page 3, after line 10, by inserting "Section 2. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation

of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate, who receives or expends, expects to receive or expend, or contracts to expend more than three thousand dollars ($3,000), campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of ***twenty-five*** [~~fifty~~] dollars ***($25)*** [~~($50)~~], and the amount, date, and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Such candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days of each filing deadline.

(3) (a) All candidates, regardless of funds received or expended, and their campaign committee shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by subsections (2) and (8) of this section for the regular election in November.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(5) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation

of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated, and an aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(6) If the final statement of an opposed candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually by opposed candidates and annually by unopposed candidates, to be in the hands of the registry postmarked within ten (10) days after April 15 and October 15 for opposed candidates and October 15 for unopposed candidates, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.

(9) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate;

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(10) No candidate as defined in this section, nor any committee as defined in this section, shall use or permit the use of contributions or funds solicited or received for such person or in support of a public issue to further the candidacy of such person for a different public office or to further a different public issue. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain such funds to further the same political issue or to seek election to the same office."

Representative Stumbo moved that the rules be suspended for the introduction of guests. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 128**, by Representative Hancock:

Amend printed copy of **HB 128** on page 8, by inserting the following after line 9:

"***(9) Before voting to undertake a review under subsection (8)(a) of this section, the committee shall notify the chairman of the committee of relevant jurisdiction for his comment.***"; and

On page 8, line 10, by deleting "*(9)*" and inserting "*(10)*" in lieu thereof.

Floor Title Amendment No. 1 to **HB 56**, by Representative Palumbo:

Amend printed copy of **HB 56** by amending the title to read as follows: "AN ACT relating to elections and declaring an emergency.".

Floor Amendment No. 1 to **HB 56**, by Representative Palumbo:

Amend printed copy of **HB 56** on page 23, following line 16, by inserting the following:

"Section 6. KRS 5.010 is amended to read as follows:

For the purpose of legislative redistricting done by the Second Extraordinary Session of 1991:

(1) The boundaries of the legislative districts created by this chapter shall be those shown on the maps generated by the Legislative Research Commission's geographic information system to accompany the redistricting plan enacted into law, ***except that, notwithstanding provisions to the contrary in this chapter, the boundary between Tudor and Stonewall precincts in Fayette County shall be as it existed on July 15, 1990, and as drawn on Fayette County precinct maps filed with the State Board of Elections.*** The official paper copies of these maps shall be on file with the State Board of Elections. A duplicate set of maps and associated population information shall be retained by the Legislative Research Commission.

(2) (a) Designated precincts are those precincts in existence on July 15, 1990. Precinct boundaries shown in the maps referred to in subsection (1) of this section are taken from county precinct maps filed with the State Board of Elections and verified and corrected by the Legislative Research Commission staff in consultation with county election officials.

(b) Census tracts and blocks shown in the maps referred to in subsection (1) of this section are those utilized for the making of the 1990 United States Census.

(c) Population data utilized for redistricting is the 1990 United States Census PL 94-171 population data that was deemed to be official by the United States Secretary of Commerce on or before July 15, 1991, and election precinct population data prepared by the Legislative Research Commission staff from the official PL 94-171 population data.

Section 7. Whereas legislative districts must be legally defined prior to the January 28, 1992, filing deadline, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Representative Stumbo moved that the rules be suspended for the introduction of guests, to introduce and act upon Resolutions and a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 12**, **HB 13**, **HB 48**, **HB 50**, **HB 51**, **HB 52**, **HB 53**, **HB 54**, **HB 55**, **HB 56**, **HB 57**, **HB 108**, **HB 117** and **HB 194** have been posted for passage in the Orders of the Day for January 21, 1992.

Representative Ward moved the adoption of the following **HCR 24**:

HCR 24, A CONCURRENT RESOLUTION honoring Target Stores, a division of the Dayton Hudson Corporation.

WHEREAS, the Dayton Hudson Corporation is the fifth largest general merchandise retailer in the United States, and is comprised of three (3) divisions: Target Stores, Mervyn's, and the Department Store Division comprised of Daytons, Hudsons, and Marshall Field's; and

WHEREAS, beginning in 1946, Dayton Hudson instituted a rare corporate philosophy of investing financial resources and employee volunteer efforts to improve the communities their stores serve; and

WHEREAS, since 1980, the charitable contributions of the Dayton Hudson Corporation and its three (3) divisions have exceeded 200 million dollars ($200,000,000); and

WHEREAS, forty percent (40%) of the community giving by Dayton Hudson supports programs and projects that result in the economic and social progress of individuals, as well as the development of local strategies that respond to critical social and economic concerns; and

WHEREAS, Dayton Hudson's Target Stores division operates six (6) stores in Kentucky, and gives back five percent (5%) of its taxable profits to its store communties; and

WHEREAS, Target Stores has joined with its sister company, Mervyn's, to improve and champion better family child care through a program known as the Family-to-Family Child Care Initiative; and

WHEREAS, the Family-to-Family Child Care Initiative is a strategy to improve the quality of family child care by developing partnerships with local nonprofit agencies to recruit, train, and accredit family child-care providers; and

WHEREAS, the Family-to-Family Child Care Initiative also offers public awareness and consumer education programs to encourage parents to demand quality care for all children, and to influence policymakers to address child care issues; and

WHEREAS, Kentucky ranks last in all fifty (50) states in the number of state regulated family child-care homes; and

WHEREAS, national studies show that family child care is the most utilized type of care in the country; and

WHEREAS, in 1990, Target Stores began a Family-to-Family Child Care Initiative in Kentucky by forming a partnership with 4-C, Community Coordinated Child Care; and

WHEREAS, the Family-to-Family Child Care Initiative is currently working in Jefferson, Bullitt, Shelby, Oldham, Henry, Spencer, and Trimble counties, and providing major funding for these communities to develop and improve family child care programs; and

WHEREAS, the emphasis of Kentucky's Family-to-Family Child Care Initiative will be to develop a comprehensive eighteen (18) hour professional program for family child care providers on the following subjects: child development; discipline; record keeping; communicating with parents; setting policies; nutrition; health; safety; first aid; and on-site technical assistance; and

WHEREAS, the Target Family-to-Family Child Care Initiative has revitalized child care programs in communities across the nation, and especially in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the members of the Kentucky General Assembly, both individually and collectively, do hereby honor Target Stores for its humanitarian commitment to the needs of the nation's children through the Family-to-Family Child Care Initiative.

Section 2. That Target Stores and Dayton Hudson's corporate philosophy and dedication to community giving is uncommon both in our international business climate, and in this era of lifestyles devoted to the promotion of personal gain.

Section 3. That all Kentuckians appreciate and laud the following individuals for their unselfish pledge to America's families: Kenneth A. Macke, Chairman of the Board and Chief Executive Officer, Dayton Hudson Corporation; Robert J. Ulrich, Chairman and Chief Executive Officer, Target Stores; Cynthia Mayeda, Chair, Dayton Hudson Foundation; Larry Gilpin, Senior Vice-President for Team, Customer, and Community Relations, Target Stores; George Hite, Vice-President of Consumer and Public Affairs, Target Stores; Susan Anderson, Manager of Community Affairs, Target Stores; Christine Benero, Community Affairs Program Administrator, Target Stores; Polly Munts, Senior Program Officer, Dayton Hudson Foundation; and Marilyn Huling, Target Stores District Manager.

Section 4. That the Kentucky General Assembly does hereby proclaim these individuals to be outstanding citizens and exemplary representatives of corporate America.

Section 5. That a copy of this resolution be transmitted to Kenneth A. Macke, Robert J. Ulrich, and Cynthia Mayeda.

HCR 24 was adopted by voice vote.

Representative Gedling moved the adoption of the following **HR 32**:

HR 32, A RESOLUTION urging and praying for the speedy recovery of County Judge/Executive Danny Boling.

WHEREAS, on January 14, 1992, County Judge/Executive Danny Boling of Hancock County was travelling to Frankfort to attend a meeting with the Transportation Cabinet; and

WHEREAS, County Judge/Executive Danny Boling was involved in a serious car accident in Perry County, Indiana on Highway 37; and

WHEREAS, County Judge/Executive Danny Boling is currently in the intensive care unit at the Owensboro-Daviess County Hospital where his condition has been upgraded to "serious";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does express its deep concern for County Judge/Executive Danny Boling's medical condition.

Section 2. That this honorable body prays for the full and speedy recovery of County Judge/Executive Danny Boling.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Danny Boling, County Judge/Executive of Hancock County, Hancock County Courthouse, Hawesville, Kentucky.

HR 32 was adopted by voice vote.

HR 36, by Representative Long: A RESOLUTION honoring Shelbyville American Legion Post 37, state baseball championship team.

Representative Long moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION honoring Shelbyville American Legion Post 37, state baseball championship team.

WHEREAS, Mike Ellis of Shelbyville's American Legion Post 37 had a super game in leading his team to the state championship with three home runs in four at bats; and

WHEREAS, Shelbyville Coach Jim "Hoss" Wiley was well pleased with his team's effort and Mike Ellis' outstanding play in notching their tenth consecutive win; and

WHEREAS, in the series opening game, Shelbyville pitching was invincible while their sluggers pounded the opposition with fourteen hits; and

WHEREAS, Post 37 now advances to the American Legion National Regional Tournament in Woodward, Oklahoma;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate coach Jim "Hoss" Wiley and his state championship team.

Section 2. That the House extends its support and best wishes for a triumphant return from Oklahoma.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jim Wiley, Route #6, Shelbyville, Kentucky 40065.

HR 36 was adopted by voice vote.

Representative Cyrus moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION relating to health care.

WHEREAS, a Federal Commission established by U.S. Secretary of Labor Elizabeth Dole recommended that Congress adopt legislation to ensure the continued provision of health benefits to retired coal miners who receive such benefits from the UMWA Health and Retirement Funds; and

WHEREAS, such legislation, introduced by Senator Jay Rockefeller of West Virginia (S. 1989) and Congressman John Murtha of Pennsylvania (H.R. 4013), would require all companies to pay a fair share of the cost of providing health benefits to their former employees and place an equitable fee on the entire coal industry to pay for the cost of "orphan" retirees who have no company to pay for such benefits; and

WHEREAS, approximately 16,000 Kentucky citizens receive their health care from the UMWA Funds; and

WHEREAS, the UMWA Funds currently are experiencing serious financial difficulties; and

WHEREAS, the Rockefeller/Murtha legislation has been endorsed by both labor and management in the coal industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky House of Representatives strongly supports S. 1989 and H.R. 4013 and urges the Congress of the United States to enact them into law.

Section 2. That a copy of this resolution be sent to the members of the Kentucky congressional delegation, the Governor, and all other coal state legislatures with a recommendation that they adopt similar resolutions of support for S. 1989 and H.R. 4013.

HR 33 was adopted by voice vote.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges to invited guests. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of Dr. Thomas C. Boysen, Commissioner of Education.

Dr. Thomas C. Boysen, Commissioner of Education, addressed the Joint Session of the General Assembly as follows:

Greetings Governor Patton, Speaker Blandford, Senator Rose, and distinguished members of the Kentucky General Assembly and the State Board for Elementary and Secondary Education.

On behalf of school children and their teachers, I come before you today to report on the condition of Kentucky schools. I appreciate this opportunity to give you a progress report on the Kentucky Education Reform Act, known as KERA.

You are "Keepers of a Dream" that is as old as America and as new as KERA. Our forebearers declared "that all men are created equal, that they are endowed with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." You invested courageously and wisely in that dream in the spring of 1990 when you enacted and funded KERA.

This dream broke forth in the June 1989 Supreme Court decision that declared "Each child, every child, in this Commonwealth must be provided with an equal opportunity to have an adequate education." The court gave you "sole responsibility for providing the system of common schools."

I want to commend you as individuals and as an institution for the unfailing interest and support you have given KERA during its infancy. Whenever the law was challenged, you were there to protect it. Whenever the law needed explanation, you were there to offer an interpretation, sometimes more than one. When issues of implementation arose, you were willing to roll up your sleeves and thrash out the solutions. Your committees and your staff have paid close attention to the unfolding of KERA and given our State Board for Elementary and Secondary Education, as well as the Education Department staff, thoughtful guidance and direction.

When people back home complained about the taxes, you stood firm and described the dream. When educators and board members sometimes gasped at the size of their challenge, you encouraged them and stood firm. For all of the above and for your warm welcome of me to the Commonwealth and to this challenge, I say "thank you."

The genius of the Reform Act grows out of the boldness of the Supreme Court decision that made two conclusions. First, it said there were "have" and "have not" school districts and that was unconstitutional. Second, the court said that even if money was redistributed and increased substantially, the existing education system would not produce adequate and equal education. Therefore, it declared unconstitutional the "entire sweep of the system — all its parts and parcels." You did not try to reconstruct a failed system, but you did create a new one up to the challenge.

Kentucky historian Thomas Clark says we are in the fourth period of major education reform since the state's founding 200 years ago. The others were in 1822, 1829-30 and 1908-11. The most comprehensive of those episodes was the 1908-11 plan. He says it had the same objective as our 1990 law — radical reform of schools — but it lacked the vision of House Bill 940.

Each of these three reforms fizzled, because they lacked leadership.

Mr. Clark is an ardent supporter of KERA, and he pins the future success of Kentucky on the success of KERA.

"If 1940 fails," he warns, "Kentucky from now on, as it always has, is going" to trail all other states "in education, economics and social and cultural affairs."

The challenge is great but your design is powerful. KERA implementation is growing in momentum and impact. Your timeline is six years and we are only one-fourth of the way there, but already many innovations are producing results.

FINANCE

In finance, where the goal is to have greater adequacy and greater equity, the schools have more money and the funds are most fairly distributed and better spent. In the first year of KERA, 1990-91, state funding rose nearly 24%. Because of the incentives you built in, local funding rose 25%, far surpassing expectations. Too little note has been made of the courage and commitment demonstrated by local school boards and their superintendents in making these tough taxation decisions. Considering all funding sources, Kentucky rose from 42nd to 37th among the states. Clearly, the down payment on fiscal adequacy was made!

As to equity, the gap between the richest group of school districts and the poorest group of school districts was reduced by one-third. The new money was well spent. School boards put it into hiring teachers to reduce class size and provide instruction in art, music and physical education. They hired teacher assistants to help in the primary program and school nurses to reach out to families. They bought safer school buses and purchased books, supplies and equipment. They raised salaries to attract and retain better teachers.

GOVERNANCE

Your governance reforms had the goal of creating excellence in policy leadership to match the excellence in teaching and learning that you sought. You knew that if greed, corruption and mismanagement were not rooted out, they would undermine school performance and sabotage public confidence.

KERA called for a new State Board for Elementary and Secondary Education appointed by the Governor and confirmed by this body. The eleven members you confirmed have shown independence, insight and persistence in holding me, the department and school districts accountable for keeping KERA's commitments.

You assigned the duties of Chief State School Officer to an appointed commissioner to serve as executive officer of the state board and to direct the Kentucky Department of Education. Management was reduced from 85 to 65 persons and 80% of the people in these positions are new to the department. Forty-three are from Kentucky and 22 are from other states. Let me assure you that the new department is firmly focused on making KERA happen and upon knowing the when, where and why of any shortfalls. That means we facilitate and assist. When that is not enough, we intervene and insist.

You created an office of education accountability and gave it strong leadership. I am pleased to report that this agency has been a powerful ally, together we have been able to confront corruption and insist upon compliance.

CURRICULUM

The heart of KERA is the set of curriculum reforms that decentralizes decisions about teaching and learning and centralizes the definition and measurement of school success.

The KERA report card that greeted you as you convened last week announced the good news about implementation. Significant progress has been made in every one of the powerful new educational initiatives. For this we are grateful to the teachers, for their hard work and cooperation, and all those people who have supported them.

Through school-based decision making, teachers, parents, and principals have taken unprecedented authority and responsibility for getting results. The goal is to have a system of world class schools by 1996. This is being achieved as the energy and creativity of teachers, students and parents is being unleashed fully, freely, and forcefully.

A forth grader in Pikeville participating in that district's performance assessment day asked recently, "Is this really a test?" She was working with a group of other youngsters on a social studies project upon which they would receive a group evaluation. Their individual mastery would be assessed on a separate writing task. When real world skills are presented on school tests, students take them seriously, so do teachers, principals and parents.

Nearly 50,000 students in each of the fourth, eighth and twelfth grades will participate in the 1991-92 assessment, taking tests in reading, mathematics, writing, science and social studies. These students will have to show what they can do with what they know. The results will form a baseline for each of our 1,400 schools against world class standards.

The preschool for three- and four-year-old children has made quick, steady progress. 75% of the income-eligible four-year-olds and 60% of three- and four-year-olds with disabilities are in school.

The new primary program will begin in September. Already, more than seven-thousand teachers have attended orientation workshops. Fourteen formal demonstration pilot programs are under way. And all elementary schools are to create implementation plans by April. We are aware of the high anxiety triggered by this change. Our best advice for teachers, staff and parents has been that they start with a modest program this fall, with steps they are confident will succeed. They can phase in additional elements during the next three years.

Another fast-starting project has been the family resource and youth services centers, which are dedicated to helping low-income people get access to already existing services. Students have been assisted in obtaining eye glasses, food, clothing, and health care. They have received mental health counseling and social services assistance. Hungry and sick students will not achieve peak performance. These centers help ensure that we will have healthy, ready-to-learn youngsters in school. One hundred thirty-three centers were launched with KERA grants.

KERA's extended school services reflect the commitment to help children keep up, rather than pay the price of catching up on dropping out. This program provides additional time for instruction at the end of school days, on weekends and during the summer. During reform's first year, twenty-five thousand students took advantage of summer school programs, and tutoring was provided for forty-six thousand children.

1992 will be a launching year for three criteria KERA components — regional service centers, professional development and the statewide technology network.

Eight regional service centers are becoming operational this month, providing professional development and technical assistance to schools and districts. The education reform programs asks teachers to make a giant leap forward. They deserve to be supported.

KERA's technology network will create student and teacher work stations and administrative management systems. We will announce a five-year master plan of implementation this month. This spring, every school and district will adopt a plan to acquire hardware and software. Systems are to begin operating this fall.

Achieving this level of success has not been without sacrifice. We are aware that many teachers have been working weekends to prepare for the task ahead. I say thank you to them.

Our journey with education reform is a long one: much untraveled terrain lies ahead. Kentucky educators truly are pathfinders in blazing a new trail for the pioneering states behind us. Any change as demanding as that presented by KERA guarantees a bumpy, and sometimes bruising implementation process. There will be many starts and stops as we search for the right answers to our challenge. Decentralization requires that local schools and districts solve their own problems, and the State Education Department will strike a balance between facilitating and monitoring. As we consider the individual programs of transformation that will catapult our schools into the future, it is important to recall that the whole will be greater than the sum of the parts only if we insist upon coordination and integration. For example, KERA aims to bring children to kindergarten ready to learn. This will require the preschool, primary, technology and family resource center programs to cooperate.

Above all else, in every area of reform, each player on the child's team must be invested in success. We must invite and challenge each child, every child, to take charge of his or her growth. This process begins at home, is accelerated in school and must continue for a lifetime.

THE CURRENT CHALLENGE

The General Assembly took up this challenge in healthier economic times for Kentucky and for the country. The president's recent trip to Asia underscores the problems of productivity and growth that afflict America. Along with educational opportunity, economic revitalization was an intention of KERA. Like the G.I. bill that followed World War II, KERA is investing in the education of a generation that will confront international competition on an unprecedented scale. It is this generation that must transform the Kentucky economy as the demand changes for raw materials and products. It is this generation that must be productive enough to support a growing population of retired people.

Never has so much been expected of such a slim work force. We cannot afford to have one-third of our students drop out. We cannot tolerate having even one student graduate chemically dependent. We cannot afford to have the mediocre skills, habits and attitudes of the past. Truly, there is no better time than today to see the connection between education and the economy. There is no better year than 1992 to let the word go forth across the state and nation that Kentucky is going to keep the dream, that Kentucky is going to stay the course.

And the nation is watching. As the economy has slumped, the need for dramatic improvement of the work force has come sharply into focus. The term "systemic change" has been invented to describe the comprehensive approach Kentucky has taken. The United States business roundtable has recommended our plan to every state. To deliver on goals set by the Governors and himself, President Bush has launched an America 2000 Program remarkably similar to KERA.

Three weeks ago, the Dallas Morning News published a series of four editorials examining the crisis in Texas schools. The writer spent a week in Kentucky and each of the articles made reference to our reform. The concluding piece stated:

"Only a few years ago, Kentucky seemed an unlikely candidate to lead the rest of the nation in school reform.

. . . If Kentucky could turn its system around, then surely Texas can embark on its own crusade to better educate its youngsters."

CONCLUSION

I would like to close with the optimism of the late Governor Bert Combs. In a summer 1991 article for the Harvard Journal on Legislation, Governor Combs wrote:

"Do not be surprised if we should, within the next decade, develop a first-class, worldwide educational system. ——Most people would think that is impossible, but Kentuckians do not believe that it is impossible."

For the public commitment shown by you and the Governor that education reform is a number one priority, even in these difficult times, we thank you.

Securing the peoples' right to life, liberty and the pursuit of happiness is the most worthy object of government. Rarely in this country has the goal been seen as clearly and approached as directly as it was in Kentucky in the Spring of 1990.

Advancing KERA in this session will require grit. It will require cooperation. It will demand diligence and intuition. It will call for patience and encouragement. All of these qualities were abundantly evident two years ago. As you feel the resurgence of these capacities, think of yourselves as the parents of a small child who is reaching out to its future. Think of yourselves as the keepers of a great dream which is flowing out of the past.

Thank you.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Orders of the Day

HB 6, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 6**. Agreed.

Representative Long moved that **HB 6**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 17, 1992 roll call on **HB 6** - Appendix.)

HB 6, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 6**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 17** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See January 17, 1992 roll call on **HB 17** - Appendix.)

HB 17 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 17** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that **HB 82** be passed.

On the roll call the vote was: Yeas 86, Nays 1. (See January 17, 1992 roll call on **HB 82** - Appendix.)

HB 82 was passed and the title agreed to.

Representative J. Harper moved that the vote by which **HB 82** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 111, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **HB 111**. Agreed.

Representative Cyrus moved that **HB 111**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See January 17, 1992 roll call on **HB 111** - Appendix.)

HB 111, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 111**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 149, with Committee Substitute, Committee Amendment, Committee Title Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Substitute to **HB 149**. Agreed.

Representative Scorsone moved the adoption of Committee Amendment No. 1 to **HB 149**. Agreed.

Representative Scorsone moved that **HB 149**, by way of Committee Substitute as amended, be passed.

Representative Mack inquired if the fiscal impact rules have been complied with on **HB 149**.

The Speaker ruled that all rules have been complied with on **HB 149**.

Representative Mack moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 149**.

On the roll call the vote was yeas 30—Ackerson, Allen, Altman, Crupper, Farrow, Ford, Gedling, Gee, Hancock, Hourigan, Jones, Keith, Lile, Little, Mack, Mason, Mullinix, Napier, Noland, Nunn, Reinhardt, Riner, Sanders, T. Smith, Strong, Toby, Todd, Turner, Walker, Zimmerman. Nays 46—Adkins, Ark, Arnold, Ballard, Barrows, Bentley, Bowling, Bronger, Burch, Casebier, Castleman, Clark, L., Clarke, Coleman, Collins, Curd, Cyrus, Deskins, Donnermeyer, Geveden, Gray, Hatcher, Heleringer, Johnson, Kerr, Lear, Lewis, Long, Lyne, Maggard, McElroy, Moberly, Northup, Palumbo, Rapier, Richards, Ridley, Riggs, Sheehan, R. Smith, Stumbo, Ward, Wayne, Williams, Worthington, Yates.

Floor Amendment No. 5 to the Committee Substitute to **HB 149** was rejected.

Representative Mack moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 149**.

On the roll call the vote was yeas 25—Ackerson, Allen, Altman, Farley, Farrow, Ford, Gee, Hourigan, Jones, Keith, Lile, Little, Mack, Mason, Mullinix, Nunn, Reinhardt, Sanders, T. Smith, Toby, Todd, Turner, Walker, Williams, Zimmerman. Nays 51—Adkins, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Geveden, Gray, K. Harper, Heleringer, Johnson, Kerr, Lear, LeMaster, Lewis, Long, Maggard, McElroy, Moberly, Northup, Palumbo, Rapier, Richards, Ridley, Riggs, Scorsone, Sheehan, R. Smith, Stokes, Stumbo, Ward, Wayne, Worthington, Yates.

Floor Amendment No. 2 to the Committee Substitute to **HB 149** was rejected.

Representative Mack moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 149**.

On the roll call the vote was yeas 61—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bronger, Burch, Callahan, Castleman, L. Clark, Collins, Crupper, Curd, Cyrus, Deskins, Farley, Farrow, Ford, Gee, Hancock, J. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, LeMaster, Lile, Little, Lyne, Mack, Maggard, Mason, McElroy, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Reinhardt, Ridley, Riner, Sanders, Sheehan, R. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Worthington, Yates, Zimmerman. Nays 24—Barrows, Bowling, Bruce, Casebier, J. Clarke, Coleman, Donnermeyer, Freibert, Geveden, Heleringer, Lear, Lewis, Long, Moberly, Morris, Pritchett, Rapier, Richards, Riggs, Scorsone, Walker, Ward, Wayne, Williams.

Floor Amendment No. 4 to the Committee Substitute to **HB 149** was adopted.

Representative Jones moved that **HB 149** by way of Committee Substitute as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 39—Ackerson, Allen, Altman, Casebier, Curd, Farley, Farrow, Ford, Gee, Gray, Hancock, J. Harper, K. Harper, Hourigan, Jensen, Keith, LeMaster, Lile, Little, Mack, Mason, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Reinhardt, Sanders, R. Smith, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Williams, Zimmerman. Nays 43—Adkins, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Burch, Callahan, L. Clark, P. Clark, Clarke, Coleman, Collins, Cyrus, Donnermeyer, Freibert, Geveden, Hatcher, Johnson, Kerr, Lear, Lewis, Long, Lyne, Maggard, McElroy, Moberly, Morris, Palumbo, Rapier, Richards, Ridley, Riggs, Riner, Scorsone, Sheehan, Ward, Wayne, Worthington, Yates.

The motion that **HB 149**, by way of Committee Substitute as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote on the passage of **HB 149**, by way of Committee Substitute as amended, was: Yeas 56, Nays 34. (See January 17, 1992 roll call on **HB 149** - Appendix.)

HB 149, by way of Committee Substitute as amended, was passed.

Representative Scorsone moved the adoption of the Committee Title Amendment to **HB 149**, by way of Committee Substitute as amended. Agreed; and the title was agreed to.

Representative Scorsone moved that the vote by which **HB 149**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 66**. (Time 11:16 a.m.)

Orders of the Day (Continued)

HCR 10 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HCR 10** be adopted.

On the roll call the vote was: Yeas 81, Nays 0. (See January 17, 1992 roll call on **HCR 10** - Appendix.)

HCR 10 was adopted.

Representative Brown moved that the vote by which **HCR 10** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Worthington moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Worthington moved that he be recorded as voting "yea" on **HB 111, HB 82, HB 17** and **HB 6**. Agreed.

Representative T. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Smith moved that he be recorded as voting "yea" on **HB 154, HB 146, HB 61** and **HB 26**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 296, by Representatives Lewis, Sheehan, Bowling, Geveden, Yates, Moberly, Barrows, Bronger, L. Clark, Walker, Wayne, Jensen, Overstreet, Deskins and Ackerson: AN ACT relating to underinsured motorist coverage.

HB 297, by Representatives Heleringer and Farrow: AN ACT proposing to amend the Constitution of Kentucky relative to powers of the General Assembly.

HB 298, by Representative Ridley: AN ACT relating to real estate appraisers.

HB 299, by Representatives Overstreet, Mullinix, Cyrus, McElroy, Arnold, Adkins, Northup, Allen, Nunn, Morris, Zimmerman, Deskins, Yates, Palumbo, L. Clark, Ford, Maggard, Napier, P. Clark, Stumbo, Bentley, Collins, Barrows , Farley, Strong, Lewis, Altman and Reinhardt: AN ACT relating to crimes and punishments.

HB 300, by Representatives Arnold, Adkins, Mason, Farley, Worthington, Gedling, Maggard Ford, R. Smith, Sanders, Adkins, Allen, Gee, Crupper, Bentley, Altman, Collins, T. Smith, Noland, Farrow, Pritchett, Ballard, Brown and J. Harper: AN ACT relating to funds for the care and maintenance of prisoners.

HB 301, by Representative Geveden: AN ACT relating to the Unified Juvenile Code.

HB 302, by Representative Geveden: AN ACT relating to the Unified Juvenile Code.

HB 303, by Representative Geveden: AN ACT relating to pupil transportation.

HB 304, by Representatives Lear and Freibert: AN ACT relating to physical examinations of school employees and agents who may transport children.

HB 305, by Representative Ward: AN ACT relating to the Kentucky Center for the Arts.

HB 306, by Representative Ward: AN ACT relating to crimes and punishments.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 214, HB 153, HB 283, HB 275**

Economic Development: **HB 89**

Representative Ridley moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ridley moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 4, Representatives Allen, Yates; **HB 6**, Representatives Lile, Northup; **HB 68**, Representative Maggard; **HB 239** and **HB 258**, Representative Donnermeyer; **HCR 26**, Representative Lyne.

Representative Deskins requested that he be withdrawn as a co-sponsor of **HR 33**. Agreed.

Announcements

The following meetings were announced:

Appropriations and Revenue, 10:00 a.m., January 21, 1992.

Agriculture and Small Business, 11:00 a.m., January 21, 1992, Room 125.

Northern Kentucky Caucus, 9:00 a.m., January 18, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Tuesday, January 21, 1992.

On the roll call the vote was yeas 78—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lile, Lyne, Mack, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Yates, Zimmerman. Nays 2—Bronger, LeMaster.

The motion to adjourn was adopted.

TUESDAY, JANUARY 21, 1992

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cyrus, Nelson, Pritchett and Reinhardt.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 17, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 25**, by Representative Callahan:

Amend printed copy of **HB 25** beginning on page 1, line 1,, by deleting "Section 1" on pages 1, 2 and 3 in its entirety and inserting in lieu thereof, "Section 1. KRS 318.015 is amended to read as follows:

(1) This chapter applies and shall be in full force and effect in all counties of the Commonwealth.

(2) The state plumbing code promulgated by the department under the provisions of this chapter applies and shall be in full force and effect for all public buildings regardless of location in the Commonwealth.

(3) This chapter shall not apply to farmsteads[.]; except that after the effective date of this Act, this chapter shall apply to all new plumbing installations serving single family dwellings located on farmsteads and connected to a public water supply."

Introduction of Bills and Resolutions

HR 37, by Representative Sanders: A RESOLUTION honoring the Grayson County Middle School students for their expressions of true Kentucky citizenship.

HJR 38, by Representatives Jensen and Ford: A JOINT RESOLUTION ratifying the original proposed Second Amendment to the Constitution of the United States of America deferring any variations in the compensation of members of the United States Congress until an election of Representatives shall have intervened.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 295, HB 296, SB 66**

Business Organizations and Professions: **HB 298**

Counties and Special Districts: **HB 300**

Education: **HB 304, HB 303**

Elections and Constitutional Amendments: **HB 297**

Judiciary: **HB 302, HB 301, HB 299, HB 306**

Natural Resources and Environmental Protection: **HB 294**

Tourism Development and Energy: **HB 305**

Report of Committees

The Committee on Cities reported **HB 7, HB 27**, with Committee Substitute attached thereto, **HB 28, HB 29** and **HB 234** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to the bonding capacity of the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.090 is amended to read as follows:

(1) The corporation ***may*** [~~is hereby authorized to~~] provide for the issuance, at one (1) time or from time to time, of bonds of the corporation ***if the cumulative outstanding indebtedness of the corporation's bonds does not exceed one billion one hundred twenty-five million dollars ($1,125,000,000), in order*** [~~in an amount not to exceed seven hundred million dollars ($700,000,000)~~] to carry out and effectuate its corporate purposes and powers [~~except as provided for in subsection (2) of this section.~~

~~(2) The corporation is hereby authorized to provide for the issuance of an additional four hundred twenty-five million dollars ($425,000,000) in bonds of the corporation with the consent of a majority of the Legislative Program Review and Investigations Committee of the Kentucky General Assembly established as set forth in KRS 6.905. The Legislative Program Review and Investigations Committee shall oversee in its entirety the bonding program herein set forth~~].

(2)[~~(3)~~] In anticipation of the issuance of [~~such~~] bonds, the corporation also ***may*** [~~is hereby authorized to~~] provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on ***the*** [~~such~~] bonds or notes shall be payable solely from the funds [~~herein~~] provided for ***the*** [~~such~~] payment. [~~Any such~~] Notes may be made payable from the proceeds of bonds or renewal notes or, ***if*** [~~in the event~~] bond or renewal note proceeds are not available, [~~such~~] notes may be paid from any available revenues or assets of the corporation.

(3)[~~(4)~~] The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at ***a*** [~~such~~] price [~~or prices~~] and under [~~such~~] terms and conditions [~~as may be~~] determined by the corporation. [~~Any such~~] Bonds or notes shall bear interest at ***a*** [~~such~~] rate [~~or rates as may be~~] determined by the corporation. Notes shall mature at ***a*** [~~such~~] time [~~or times~~] not exceeding ten (10) years from their date [~~or dates~~] and bonds shall mature at ***a*** [~~such~~] time [~~or times~~] not exceeding forty (40) years from their date [~~or dates~~], as [~~may be~~] determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination [~~or denominations~~] and the place [~~or places~~] of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. ***If an*** [~~In case any~~] officer whose signature or a facsimile of whose signature shall appear on any bonds***,*** [~~or~~] notes***,*** or coupons attached thereto shall cease to be such officer before the delivery thereof, ***the*** [~~such~~] signature or [~~such~~] facsimile shall [~~nevertheless~~] be valid and sufficient for all purposes the same as if he had remained in office until [~~such~~] delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for, the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, ***the*** [~~such~~] bonds or notes may be sold in ***a*** [~~such~~] manner, either at public or private sale, and for ***a*** [~~such~~] price as ***the*** [~~said~~] corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter***, if the*** [~~provided that such~~] sale ***is*** [~~shall be~~] approved by the corporation.

(4)[~~(5)~~] The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in ***the*** [~~such~~] manner and under ***the*** [~~such~~] restrictions if any, [~~as~~] the corporation may provide in the resolution authorizing the issuance of [~~such~~] bonds or notes or in the trust agreement [~~hereinafter mentioned~~] securing the same.

(5)[~~(6)~~] Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when ***the*** [~~such~~] bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(6)[~~(7)~~] Bonds or notes may be issued under the provisions of this chapter ***as provided in KRS 45.810*** [~~only upon obtaining the approval of the Legislative Program Review and Investigations Committee of the Kentucky General Assembly~~]. ***The corporation shall annually report on its housing and bonding programs to the Appropriations and Revenue Committee of the Kentucky General Assembly.***

(7)[~~(8)~~] The Finance and Administration Cabinet shall provide to the corporation [~~such~~] fiscal consultant services regarding revenue bond management as [~~may be~~] necessary.

HB 27, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.470 is amended to read as follows:

(1) ***If*** [~~Whenever~~] the limits of a city are enlarged or reduced, the city shall, within sixty (60) days ***of the enlargement or reduction*** [~~thereof~~], cause an accurate map of the annexed or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located, [~~and~~] in the office of the Secretary of State***, and in the Department of Local Government***.

(2) No city which has annexed new territory may levy any tax upon the residents or property within ***the*** [~~such~~] annexed area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

Section 2. KRS 91A.010 is amended to read as follows:

As used in KRS 91A.010 to 91A.060, unless the context otherwise requires:

(1) "Budget" means a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.

(2) "Debt service" means the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

(3) "Encumbrances" mean obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

(4) "Executive authority" means the mayor in any city organized under the mayor-council plan or mayor-aldermen plan, the commission in any city organized under the commission plan or the board in any city organized under the city manager plan.

(5) "Fiscal year" means the accounting period for the administration of fiscal operations.

(6) ***"Generally accepted governmental auditing standards" means those standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States.***

(7) "Generally accepted principles of governmental accounting" mean those standards and procedures promulgated and recognized by the [~~National Council of~~] Governmental Accounting ***Standards Board,*** [~~the Municipal Finance Officers of the U.S. and Canada and the American Institute of Certified Public Accountants~~].

(8)[~~(7)~~] "Legislative body" means the council in cities organized under the mayor-council plan, the board of aldermen in cities of the first class organized under the mayor-aldermen plan, the commission in cities organized under the commission plan and the board of commissioners in cities organized under the city manager plan.

Section 3. KRS 91A.030 is amended to read as follows:

(1) Each city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. Notwithstanding any other provision of law, after July 15, 1980, no city shall expend any moneys from any governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

(2) Moneys held by a city as a trustee or agent for individuals, private organizations or other governmental units need not be included in the budget ordinance.

(3) If in any fiscal year subsequent to a fiscal year in which a city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year shall have full force and effect as if readopted.

(4) The budget ordinance of a city shall cover one (1) fiscal year, except that any city required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky Constitution may utilize for transition purposes a fiscal year of any length not to exceed eighteen (18) months. [~~Any such adjustment shall be completed not later than two (2) years from July 15, 1980.~~]

(5) Preparation of the budget proposal shall be the responsibility of the executive authority of the city in cities operating pursuant to KRS Chapter 83, KRS 83A.130 or 83A.140 or the city manager in cities operating pursuant to KRS 83A.150.

(6) The budget proposal shall be prepared in ***a*** [~~such~~] form and detail as is prescribed by ordinance.

(7) The budget proposal together with a budget message shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(8) (a) The legislative body shall adopt a budget ordinance making appropriations for the fiscal year in such sums as the legislative body finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may be in any form that the legislative body finds most efficient in enabling it to make the necessary fiscal policy decisions.

(b) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one (1) fiscal year in violation of Section 157 of the Kentucky Constitution.

(9) The full amount estimated to be required for debt service during the budget year shall be appropriated ***for all governmental fund types.***

(10) The city legislative body may amend the budget ordinance [~~at any time~~] after the ordinance's adoption, ***if*** [~~so long as~~] the amended ordinance continues to satisfy the requirements of this section.

(11) Administration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city. ***That*** [~~Such~~] responsibility shall include the preparation and submission to the legislative body of operating statements which shall include budgetary comparisons of each governmental fund for which an annual budget has been adopted. ***The*** [~~Such~~] reports shall be submitted not less than once every three (3) months in each fiscal year.

(12) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in KRS 91A.020.

(13) No city agency, or member, director, officer or employee ***of a city agency*** [~~thereof~~], may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements and obligations, express or implied beyond ***any*** [~~such~~] existing appropriations are void; nor shall any city officer issue any bond, certificate or warrant for the payment of money by the city in any way to any extent, beyond the unexpended balance of any appropriation made for the purpose.

Section 4. KRS 91A.040 is amended to read as follows:

(1) Each city of the first through fifth class shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to subsection (4)(f) of this section, each city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) Except as provided in subsection (3) of this section, each city of the sixth class shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to subsection (4)(f) of this section, each sixth class city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall

prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department of Local Government. The department shall ***forward*** [~~be responsible for forwarding~~] one (1) copy of the financial statement to the Legislative Research Commission.

(3) Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than twenty-five thousand dollars ($25,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department of Local Government for information purposes. The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(4) Each city required by this section to conduct an annual or biannual audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the general purpose financial statements of all governmental, proprietary, and fiduciary funds of the city;

(b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended;

(c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include [~~such~~] tests of the accounting records and [~~such~~] auditing procedures [~~as~~] considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(d) The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his opinion and statements relating ***to those statements*** [~~thereto~~];

(e) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(f) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and

(g) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(6) Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (7) of this section, or publish a financial statement in accordance with subsection (8) of this section. Notwithstanding the election of subsection (7) or (8) of this section, the city shall, within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided ***a*** [~~such~~] statement.

(7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the city council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement

shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his personal use. The statement shall notify citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty five cents ($0.25) per page. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of ***the*** [~~such~~] statement.

(8) If the city, other than a city of the first or second class or urban-county government, elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish ***the*** [~~such~~] statement in accordance with KRS Chapter 424.

(9) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.

(10) Any person who violates any provision of this section shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars ($50) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 5. KRS 174.100 is amended to read as follows:

Before any unit of local government expends state-derived tax revenues on a state rural, secondary, county road or municipal highway, road, street, or county or municipal bridge, it shall hold a hearing in accordance with the provisions of this section to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(1) ***Prior to*** [~~Not less than forty-five (45) days before~~] the contemplated date of expenditure of state derived tax revenues on a road or bridge by a unit of local government, that unit of government shall hold a public hearing ***to take*** [~~for the purpose of taking~~] the sense of the public with regard to road and bridge matters within the unit of local government. Notice of the hearing shall be given not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing and before beginning work on any project covered by this section.

(2) At the hearing, any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(3) The unit of local government holding the hearing shall not be bound by the testimony heard at the hearing but shall give due consideration to it.

(4) No unit of local government shall begin construction on a road or bridge project ***in which*** [~~wherein~~] state-derived tax revenues are involved until the hearing as provided ***in this section*** [~~herein~~] has been held.

(5) This section shall not be construed to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, ***if*** [~~provided~~] all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this section.

(6) The provisions of this section shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(7) The provisions of this section shall not apply to projects which ***were*** [~~are~~] under construction as of ***July 15, 1980,*** [~~the effective date of this section~~] unless construction ***was*** [~~is~~] suspended after ***that date*** [~~the effective date of this section~~] and the unit of local government desires to reactivate the project.

The Committee Substitute to **HB 27** is as follows:

HB 27, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.470 is amended to read as follows:

(1) ***If*** [~~Whenever~~] the limits of a city are enlarged or reduced, the city shall, within sixty (60) days ***of the enlargement or reduction*** [~~thereof~~], cause an accurate map of the annexed or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located***,*** [~~and~~] in the office of the Secretary of State***, and in the Department of Local Government.***

(2) No city which has annexed new territory may levy any tax upon the residents or property within ***the*** [~~such~~] annexed area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

Section 2. KRS 91A.010 is amended to read as follows:

As used in KRS 91A.010 to 91A.060, unless the context otherwise requires:

(1) "Budget" means a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.

(2) "Debt service" means the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

(3) "Encumbrances" mean obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

(4) "Executive authority" means the mayor in any city organized under the mayor-council plan or mayor-aldermen plan, the commission in any city organized under the commission plan or the board in any city organized under the city manager plan.

(5) "Fiscal year" means the accounting period for the administration of fiscal operations.

(6) ***"Generally accepted governmental auditing standards" means those standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States.***

(7) "Generally accepted principles of governmental accounting" mean those standards and procedures promulgated and recognized by the [~~National Council of~~] Governmental Accounting ***Standards Board***, [~~the Municipal Finance Officers of the U.S. and Canada and the American Institute of Certified Public Accountants~~].

(8)[~~(7)~~] "Legislative body" means the council in cities organized under the mayor-council plan, the board of aldermen in cities of the first class organized under the mayor-aldermen plan, the commission in cities organized under the commission plan and the board of commissioners in cities organized under the city manager plan.

Section 3. KRS 91A.030 is amended to read as follows:

(1) Each city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. Notwithstanding any other provision of law, after July 15, 1980, no city shall expend any moneys from any governmental or proprietary fund, except in accordance with a budget ordinance adopted pursuant to this section.

(2) Moneys held by a city as a trustee or agent for individuals, private organizations or other governmental units need not be included in the budget ordinance.

(3) If in any fiscal year subsequent to a fiscal year in which a city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year shall have full force and effect as if readopted.

(4) The budget ordinance of a city shall cover one (1) fiscal year, except that any city required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky Constitution may utilize for transition purposes a fiscal year of any length not to exceed eighteen (18) months. [~~Any such adjustment shall be completed not later than two (2) years from July 15, 1980.~~]

(5) Preparation of the budget proposal shall be the responsibility of the executive authority of the city in cities operating pursuant to KRS Chapter 83, KRS 83A.130 or 83A.140 or the city manager in cities operating pursuant to KRS 83A.150.

(6) The budget proposal shall be prepared in ***a*** [~~such~~] form and detail as is prescribed by ordinance.

(7) The budget proposal together with a budget message shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(8) (a) The legislative body shall adopt a budget ordinance making appropriations for the fiscal year in such sums as the legislative body finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may be in any form that the legislative body finds most efficient in enabling it to make the necessary fiscal policy decisions.

(b) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one (1) fiscal year in violation of Section 157 of the Kentucky Constitution.

(9) The full amount estimated to be required for debt service during the budget year shall be appropriated ***for all governmental fund types.***

(10) The city legislative body may amend the budget ordinance [~~at any time~~] after the ordinance's adoption, ***if*** [~~so long as~~] the amended ordinance continues to satisfy the requirements of this section.

(11) Administration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city. ***That*** [~~Such~~] responsibility shall include the preparation and submission to the legislative body of operating statements which shall include budgetary comparisons of each governmental fund for which an annual budget has been adopted. ***The*** [~~Such~~] reports shall be submitted not less than once every three (3) months in each fiscal year.

(12) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in KRS 91A.020.

(13) No city agency, or member, director, officer or employee ***of a city agency*** [~~thereof~~], may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements and obligations, express or implied beyond ***any*** [~~such~~] existing appropriations are void; nor shall any city officer issue any bond, certificate or warrant for the payment of money by the city in any way to any extent, beyond the unexpended balance of any appropriation made for the purpose.

Section 4. KRS 91A.040 is amended to read as follows:

(1) Each city of the first through fifth class shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to subsection (4)(f) of this section, each city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) Except as provided in subsection (3) of this section, each city of the sixth class shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, pursuant to subsection (4)(f) of this section, each sixth class city shall forward three (3) copies of the audit report to the Kentucky Department of Local Government for information purposes. The department shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department of Local Government. The department shall ***forward*** [~~be responsible for forwarding~~] one (1) copy of the financial statement to the Legislative Research Commission.

(3) Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than twenty-five thousand dollars ($25,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Kentucky Department of Local Government for information purposes.

The department shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(4) Each city required by this section to conduct an annual or biannual audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the general purpose financial statements of all governmental, proprietary, and fiduciary funds of the city;

(b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended;

(c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include [~~such~~] tests of the accounting records and [~~such~~] auditing procedures [~~as~~] considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(d) The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his opinion and statements relating ***to those statements*** [~~thereto~~];

(e) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(f) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and

(g) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.

(5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(6) Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (7) of this section, or publish a financial statement in accordance with subsection (8) of this section. Notwithstanding the election of subsection (7) or (8) of this section, the city shall, within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided ***a*** [~~such~~] statement.

(7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish the auditor's cover letter to the city council, the combined balance sheet showing all fund types and account groups, the combined statement of revenues, expenditures and changes in fund balance for all governmental fund types, the combined statement of revenues, expenses and changes in retained earnings/fund balances for all proprietary fund types and similar trust funds, and the combined statement of changes in financial position for all proprietary fund types and similar trust funds in accordance with KRS Chapter 424. The advertisement shall contain a statement that a copy of the complete auditor's report, including financial statements and supplemental information, are on file at city hall and are available for public inspection during normal business hours. The advertisement shall also contain a statement that any citizen may obtain from city hall a copy of the complete auditor's report, including financial statements and supplemental information, for his personal use. The statement shall notify citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty five cents ($0.25) per page. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of ***the*** [~~such~~] statement.

(8) If the city, other than a city of the first or second class or urban-county government, elects to publish

the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish ***the*** [~~such~~] statement in accordance with KRS Chapter 424.

(9) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.

(10) Any person who violates any provision of this section shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars ($50) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 5. KRS 174.100 is amended to read as follows:

Before any unit of local government expends state-derived tax revenues on a state rural, secondary, county road or municipal highway, road, street, or county or municipal bridge, it shall hold a hearing in accordance with the provisions of this section to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(1) ***Prior to*** [~~Not less than forty-five (45) days before~~] the contemplated date of expenditure of state derived tax revenues on a road or bridge by a unit of local government, that unit of government shall hold a public hearing ***to take*** [~~for the purpose of taking~~] the sense of the public with regard to road and bridge matters within the unit of local government. Notice of the hearing shall be given not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing and before beginning work on any project covered by this section.

(2) At the hearing, any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(3) The unit of local government holding the hearing shall not be bound by the testimony heard at the hearing but shall give due consideration to it.

(4) No unit of local government shall begin construction on a road or bridge project ***in which*** [~~wherein~~] state-derived tax revenues are involved until the hearing as provided ***in this section*** [~~herein~~] has been held.

(5) This section shall not be construed to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, ***if*** [~~provided~~] all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this section.

(6) The provisions of this section shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(7) The provisions of this section shall not apply to projects which ***were*** [~~are~~] under construction as of ***July 15, 1980,*** [~~the effective date of this section~~] unless construction ***was*** [~~is~~] suspended after ***that date*** [~~the effective date of this section~~] and the unit of local government desires to reactivate the project.

Section 6. KRS 65.905 is amended to read as follows:

(1) Each local government shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Department of Local Government by February 1 immediately following the close of the fiscal year. The Department of Local Government shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor pursuant to KRS 91A.040. Each county may have the uniform financial information report completed by its auditor selected pursuant to KRS 43.070 or 64.810. Each special district may have the uniform financial information report completed by its auditor selected pursuant to KRS 65.065. If a city does not use the auditor to complete the uniform financial information report, it shall by ***order*** [~~ordinance~~] designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Department of Local Government. If a local government has any agency, board, or commission that receives any funding from

the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.

(3) The Department of Local Government shall by administrative regulation prescribe the format of the uniform financial information report. The department shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Department of Local Government and the United States Bureau of the Census, the department shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of February 1.

(4) The Department of Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to the department for use by either the state or federal governments, by consolidating the required information into the uniform report.

Section 7. KRS 65.910 is amended to read as follows:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services, and all expenditures as set forth in this section.

(2) Demographic information shall include:

(a) The name of the unit of local government;

(b) The county in which the city or special district is located;

(c) The classification of the city;

(d) The population of the unit of local government;

(e) The form of government of the city; and

(f) The area development district in which the unit of local government is located.

(3) Bonded indebtedness and debt service information shall include:

(a) The name of each project listed individually;

(b) The type of bond issue used for each project;

(c) The bonded indebtedness of each project;

(d) The debt service requirements of each project; and

(e) The specific source of debt service funds, whether local government appropriations or use of non-government funds.

(4) Lease-purchase agreement information shall include:

(a) Purpose of the agreement;

(b) Identity of the lessor;

(c) Principal amount of the agreement;

(d) Interest rate or rates for the agreement;

(e) Date the local government entered into agreement;

(f) Length of term of agreement;

(g) Current annual debt service requirements for agreement; and

(h) A list of and the purpose of any short-term renewal bank notes.

(5) Tax rate and revenue information shall include:

(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;

(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, [~~tangible and intangible~~] personal property, and motor vehicles ***and watercraft***; and

(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:

1. Occupational license tax on persons;

2. Occupational license tax on business net profits, gross receipts, or a flat rate;

[~~3. Business inventory tax;~~]

3.[~~4.~~] Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;

4.[~~5.~~] Transient room tax;

5.[~~6.~~] Restaurant tax;

6.[~~7.~~] Bank shares;

[~~8. Tobacco in storage;~~]

7.[~~9.~~] Delinquent collections; and

8.[~~10.~~] Special purpose and other taxes.

(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:

(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;

(b) Required sticker fees on automobiles and trucks;

(c) Motor vehicles fees on taxicabs, truck-tractors, semitrailers and trailers;

(d) Coin-operated machines;

(e) Cable television;

(f) Building, electrical, and plumbing permits;

(g) Zoning permits and development impact fees;

(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;

(i) Licensing of electricians and electrical contractors;

(j) Unloading fees;

(k) Public service fees for fire protection, police protection;

(l) Ambulance service franchise fees and ambulance run fees;

(m) Animal license fees; and

(n) Any other source of license, permit or fee.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:

(a) Waterworks;

(b) Sewage treatment;

(c) Electric light, heat, and power;

(d) Gas;

(e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;

(f) Transit authority; and

(g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:

(a) Kentucky Law Enforcement Foundation Program fund;

(b) Professional Firefighters Foundation Program fund;

(c) Community development block grant funds;

(d) County or municipal road aid;

(e) Local government economic assistance funds;

(f) Net court revenues;

(g) Kentucky Infrastructure Authority funds;

(h) Economic development bonds;

(i) Kentucky Development Finance Authority funds;

(j) Environmental Protection Agency funds;

(k) County or city transfers; and

(l) Any other source of state or federal funds.

(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:

(a) Parking meter receipts;

(b) Parking facility receipts;

(c) Parking violation fines;

(d) Charges for impounded vehicles;

(e) Sale of abandoned vehicles;

(f) Delinquent tax bills;

(g) Fines and forfeitures;

(h) Penalties and interest;

(i) Franchise payments for governmental services bid out to the private sector;

(j) Golf course receipts;

(k) Parks and recreation;

(l) Proceeds from sale of seized and forfeited property;

(m) Rent;

(n) Interest from investments and dividends; and

(o) Any other source of revenue or charge for service.

(10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department of Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

HB 28, AN ACT relating to the establishment of an affordable housing trust fund and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context otherwise requires:

(1) "Homeless individual" means a person who:

(a) Lacks a fixed, regular, or adequate nightime residence;

(b) Is at risk of becoming homeless in a rural or urban area because the residence is not safe, decent, sanitary, or secure;

(c) Has as a primary nighttime residence a publicly- or privately-operated shelter designed to provide temporary living accommodations;

(d) Has as a primary nightime residence a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(e) Is a family or a person who does not have access to normal accommodations due to violence or the threat of violence from a cohabitant.

(2) "Nonprofit organization" means an organization duly organized and validly existing as a not-for-profit organization under the laws of the Commonwealth, any other state, or the United States and whose purpose includes the development, construction, rehabilitation, or acquisition of housing.

(3) "Technical assistance" means activities that are directly related to a nonprofit organization's ability to provide housing for very low-income persons in assisted projects under Sections 1 to 7 of this Act, and includes land use and planning costs, design and engineering services, finance services, loan packaging assistance, program development assistance, construction consultation, and marketing assistance for developers, and budgeting assistance, independent living skill development, homeownership, tenant education, and self-sufficiency development for renters and homeowners.

(4) "Trust fund" means the affordable housing trust fund.

(5) "Very low-income" means the income of individuals or families that is below fifty percent (50%) of the median income for the Commonwealth as determined by the United States Department of Housing and Urban Development.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that current economic conditions, federal housing policies, and declining resources at the federal, state, and local levels adversely affect the ability of very low-income persons to obtain safe, decent, and affordable housing; that an increasing number of individuals are homeless, are at risk of becoming homeless, or live in overcrowded, inadequate, and unsafe housing units; and it is in the public interest to establish a continuously renewable resource known as an affordable housing trust fund to assist very low-income persons in meeting their basic housing needs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a separate, revolving, nonlapsing fund known as the affordable housing trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

(1) The administering agency for the trust fund shall be the Kentucky Housing Corporation, which shall use moneys from the trust fund to make, or participate in the making, of loans or grants for the eligible activities described in this section. Loans or grants shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available funds.

(2) Activities eligible for funding shall include:

(a) Provision of matching funds for federal housing dollars requiring a local or state match including, but not limited to, the National Affordable Housing Act of 1990;

(b) Acquisition of housing units for the purpose of preservation or conversion as very low-income housing;

(c) New construction or rehabilitation of very low income housing units;

(d) Matching funds for technical assistance directly related to providing housing for persons pursuant to Sections 1 to 7 of this Act; and

(e) Administrative costs for housing assistance programs or organizations eligible for funding pursuant to subsection (3) of this section, if the grants or loans will substantially increase the recipient's access to housing funds other than those available under Sections 1 to 7 of this Act.

(3) Organizations eligible for funding from the trust fund include local governments, local government housing authorities, nonprofit organizations, and regional or statewide housing assistance organizations.

(4) Housing units provided to very low-income persons or families pursuant to Sections 1 to 7 of this Act, shall be deed-restricted under the following conditions:

(a) Rental housing shall be deed-restricted for a minimum of thirty (30) years. Amendments may be granted by the board of directors of the corporation on a case-by-case basis. Investment from the trust fund into a specific housing type shall revert to like housing for very low-income persons.

(b) Single-family units or units for sale shall be deed restricted for a minimum of five (5) years.

(5) In the development of housing pursuant to Sections 1 to 7 of this Act, displacement of very low-income persons shall not be permitted unless the project shall pay all reasonable relocation costs as defined by the board of directors of the corporation.

(6) There shall not be discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under Sections 1 to 7 of this Act to any buyer or renter because of race, religion, sex, familial status, handicap, or national origin.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

(1) The corporation shall issue a public notice to eligible recipients of the availability of trust funds at least twice each calendar year and provide for reasonable opportunity for the filing of applications.

(2) The corporation shall approve or deny properly submitted and completed applications within sixty (60) days of their receipt.

(3) The corporation shall grant as many applications as will effectively use available funds.

(4) The corporation shall grant or deny applications by ranking the application's competitively using criteria established by the board of directors of the corporation. Applications shall receive the following priority rankings:

(a) Applications for projects submitted by nonprofit organizations or local governments for new construction for families shall receive first priority funding;

(b) Applications for projects using existing privately-owned housing stock, including stock purchased by nonprofit public development authorities, shall receive second priority funding;

(c) Applications for projects using existing publicly-owned housing stock shall receive third priority funding; and

(d) Applications from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single room occupancy units shall receive fourth priority funding.

(5) The corporation shall limit funds to be used for administrative costs to no more than five percent (5%) of available funds, and shall disapprove any project in which more than five percent (5%) of available funds shall be used for administrative costs.

(6) The corporation shall require at least forty percent (40%) of all funds received to be used for rural areas of the Commonwealth, excluding the following areas: Ashland, Bowling Green, Covington, Henderson, Hopkinsville, Jefferson County, Lexington-Fayette County, Louisville, Owensboro, and Paducah.

(7) The corporation shall require at least twenty percent (20%) of all funds received to be used for persons whose income is below thirty percent (30%) of the median income of the Commonwealth.

(8) Funds targeted under this section that are not expended or set-aside within twenty-four (24) months from allocation may be reallocated in nontargeted communities for very low-income persons. The corporation may extend the twenty-four (24) month period for good cause; however, an extension shall not exceed an additional twelve (12) month period.

(9) The corporation shall provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low-income persons. The corporation may contract with nonprofit organizations to provide the technical assistance required by this subsection.

(10) The corporation shall provide or contract for the following services:

(a) Financial planning and packaging for housing projects including alternative ownership programs and bridge financing;

(b) Project design, architectural planning, siting, and compliance with planning requirements;

(c) Securing matching resources for project development;

(d) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low rise-multifamily projects, or creative local planning;

(e) Coordination with local planning, economic development, environmental, technical assistance, and recreational activities;

(f) Construction and material management; and

(g) Project maintenance and management.

(11) The corporation shall have the authority to disburse funds and to promulgate administrative regulations pursuant to KRS Chapter 13A regarding the trust fund, the grant and loan process, the criteria for eligible projects, the preferences to be given and evaluation criteria to be used to approve projects, and other administrative regulations necessary to carry out the purposes of Sections 1 to 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

(1) The corporation shall create an advisory committee for the trust fund consisting of eleven (11) members appointed by the chairman of the board of directors of the corporation.

(a) Three (3) members shall be appointed from representatives of each of the following categories of organizations:

1. The Home Builders Association of Kentucky, the Kentucky Manufactured Housing Institute, the Apartment Association, the Kentucky Association of Realtors, the Kentucky State Building Trades Council, the Mortgage Bankers Association of Kentucky, and the Kentucky Bankers Association;

2. The Homeless and Housing Coalition of Kentucky, builders or nonprofit housing organizations, support service providers, homeless persons, and very low-income tenants; and

3. The Kentucky Association of Counties, the Kentucky League of Cities, and agencies of state government.

(b) The remaining two (2) members appointed shall include one (1) member of the Kentucky Senate and one (1) member of the Kentucky House of Representatives.

(2) Upon organization of the advisory committee three (3) members shall continue in office for three (3) years, three (3) members shall have two (2) year terms, and three (3) members shall have two (2) year terms, and three (3) members shall have a one (1) year term, as designated by the chairman of the board of directors. Thereafter, all members appointed shall serve a three (3) year term or until their successors are appointed and duly qualified. A vacancy on the advisory committee shall be filled pursuant to the requirements and procedures for original appointments. Members of the advisory committee may be reappointed one (1) time.

(3) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the trust fund.

(4) The advisory committee shall elect a presiding officer from its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(5) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the "Kentucky Affordable Housing Act."

Section 8. To carry out the purposes of Sections 1 to 7 of this Act, there is appropriated to the affordable housing trust fund out of the General Fund in the State Treasury the sum of six million dollars ($6,000,000) for the fiscal year ending June 30, 1993 and six million dollars ($6,000,000) for the fiscal year June 30, 1994.

HB 29, AN ACT relating to publication of legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace only one (1) subject and shall have a title that shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ______________."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication ***to provide*** [~~in order~~] for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, a charter county government, and as provided in subsection (7) of this section, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances ***may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared and certified by an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:***

(a) The title of the ordinance;

(b) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and

(c) The full text of each section that imposes fines, penalties, forfeitures, taxes, or fees[~~, except bond ordinances, imposing fines, forfeitures, imprisonment, taxes, or fees shall be published in full. The publication requirements for all other ordinances, including all bond and zoning ordinances, shall be satisfied by publication in full or in summary as designated by the legislative body. The requirements for summary publication shall be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky~~].

Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may [~~by ordinance~~] specify ***by ordinance*** additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) ***At least*** [~~Not less than~~] once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.

(12) The legislative body may adopt municipal orders. ***Orders*** [~~Any order~~] shall be in writing and may be adopted only at an official meeting. ***Orders*** [~~Any order~~] may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of ***the*** [~~such~~] ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the General Assembly.

Section 2. KRS 424.190 is amended to read as follows:

(1) ***If*** [~~In any case where~~] a statute [~~now~~] gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and ***if*** [~~in any case where~~] a statute [~~now~~] provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, except as provided in subsection (2) of this section.

(2) Any city [~~of the fifth or sixth class~~] may, when the cost of the newspaper publication exceeds the cost of postage, supplies and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area. Any city electing to use the alternative publication methods authorized by this section shall ***forward*** [~~remain responsible for forwarding either~~] three (3) copies of its audit report or one (1) copy of its financial statement, whichever is applicable, to the Kentucky Department of Local Government pursuant to KRS 91A.040 and 424.220.

HB 234, AN ACT relating to the transfer of incorporated areas between cities of the second through sixth classes, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) When two (2) cities of the second through the sixth class have a common boundary and it is determined that a specified area within one (1) city can be better served by the adjoining city, the specified incorporated area may be transferred to the adjoining city upon enactment of identical ordinances by each city legislative body and the submission of a petition in support of the transfer signed by voters in the area to be transferred.

(2) The ordinances declaring the transfer of property between two (2) cities shall include but not be limited to the following:

(a) A definition of the area to be transferred;

(b) A statement of the financial considerations between the two (2) cities regarding the area and the terms of any financial agreements;

(c) The resolution of any taxes or revenues from the area; and

(d) A statement of the land use or zoning regulations which would be applicable to the area being transferred if planning and zoning is in effect pursuant to KRS Chapter 100 in either city.

(3) Prior to the effective date of the transfer of the property, a petition in support of the transfer, containing a number of signatures of residents in the area to be transferred which is not less than fifty-one percent (51%) of the number of registered voters in the area to be transferred, shall be submitted to the county clerk of the county from which the property is being transferred. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition. No petition shall be required to be submitted when the property proposed for transfer contains no residents and the property owners consent in writing to the transfer.

(4) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.

(5) The authority for the transfer of incorporated property between cities shall be exclusive of the provisions of KRS 81A.440.

(6) In addition to other public notice requirements, cities involved in the transfer of incorporated areas between cities shall comply with the provisions of KRS 81A.470 and 81A.475.

(7) The incorporated area being transferred shall assume the local option status of the city to which it is being transferred.

Section 2. KRS 81A.400 is amended to read as follows:

The boundaries of any city other than a city of the first class shall remain as established by law until changed as provided in KRS 81A.410 to 81A.470 ***or Section 1 of this Act***. The legislative body of any city other than a city of the first class may annex any unincorporated territory pursuant to KRS 81A.420, or reduce the boundaries of the city under the provisions of KRS 81A.440.[~~; or~~] A city may merge with a contiguous city pursuant to KRS 81.410 to 81.440***, or there may be the transfer of incorporated territory between two (2) cities pursuant to Section 1 of this Act***.

Section 3. KRS 81A.460 is amended to read as follows:

If a proposal by a city to annex unincorporated territory, or to reduce its boundaries ***pursuant to KRS 81A.440*** is rejected by the voters of the territory proposed to be annexed or stricken, no further steps to annex or strike the same territory shall be taken within five (5) years from the date of rejection, nor shall the question of annexation or striking off be again submitted within that period.

Section 4. KRS 81A.470 is amended to read as follows:

(1) ***If*** [~~Whenever~~] the limits of a city are enlarged or reduced, the city shall, within sixty (60) days thereof, cause an accurate map of the annexed***, transferred,*** or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located and in the office of the Secretary of State.

(2) No city which has annexed ***unincorporated or accepted transfer of incorporated*** [~~new~~] territory may levy any tax upon the residents or property within ***the*** [~~such~~] annexed ***or transferred*** area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

Section 5. KRS 81A.475 is amended to read as follows:

If [~~Whenever~~] any city annexes any unincorporated area***, accepts the transfer of incorporated territory*** [~~or any city~~], or reduces the boundaries of the city, it shall be the duty of the legislative body of the [~~annexing~~] city to provide within sixty (60) days***,*** [~~thereof~~] to the county clerk of the county in which the [~~annexing~~] city is located***,*** [~~with~~] a map clearly delineating the boundaries of the area affected along with a list of the names and addresses of those property owners and[~~/or~~] registered voters who reside in ***the*** [~~such~~] area.

Section 6. KRS 100.209 is amended to read as follows:

(1) When a city which has adopted zoning or other land use regulations pursuant to this chapter proposes to annex ***unincorporated or accept the transfer of incorporated*** [~~new~~] territory, it may amend its comprehensive plan and official zoning map to incorporate and establish zoning or other land use regulations for the property proposed for annexation ***or transfer*** prior to adoption of the ordinance of annexation ***or transfer***. If the city elects to follow this procedure, the planning commission shall hold a public hearing, after the adoption of the ordinance stating the city's intention to annex ***or transfer property*** and prior to final action upon the ordinance of annexation ***or transfer***, for the purpose of adopting the comprehensive plan amendment and making its recommendations as to the zoning or other land use regulations which will be effective for the property upon its annexation ***or transfer***. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS Chapter 424 and shall be given to the owners of all properties within the area proposed for annexation ***or transfer*** and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the planning commission's recommendations prior to adoption of the ordinance of annexation ***or transfer*** and shall include in the ordinance of annexation ***or transfer*** a map showing the zoning or other land use regulations which will be effective for the annexed ***or transferred*** property. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation ***or transfer***, the newly annexed ***or transferred*** territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation ***or transfer*** until those restrictions are changed by zoning map amendments or other regulations in accordance with this chapter.

(2) When a city is created or when a city of the fifth or sixth class is reclassified to a city of the fourth class or higher in a county containing a city of the first class, and the intent is to regulate land use within the confines of the city, the process for adopting or amending the comprehensive plan and adopting zoning or other land use regulations shall be as provided for in this chapter. Until such actions have been taken, the properties within the city shall remain subject to the land use restrictions, if any, as applied prior to the creation or reclassification of the city.

Section 7. Whereas situations exist in incorporated areas throughout the Commonwealth in which constraints resulting from the lack of necessary infrastructure or jurisdictional limitations prohibit cities from providing effective or financially efficient services to their citizens, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Business Organizations and Professions reported **HB 136** and **HB 265** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 136, AN ACT relating to crime stoppers organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Crime stoppers organization" means a private, nonprofit organization that accepts and disperses donations for rewards to persons who:

(a) Report to the organization information concerning criminal activity and such information results in the arrest or indictment of the person committing the crime; or

(b) Provide to the organization information pertaining to the recovery or confiscation of stolen property, contraband or illegal controlled substances.

(2) Information provided in subsection (1) of this section shall be forwarded to the appropriate law enforcement agency.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A crime stoppers organization shall:

(1) Foster the detection of crime and encourage persons to report information about criminal acts;

(2) Encourage news and other media to promote local crime stoppers organizations and to inform the public of the functions of the organization;

(3) Assist other crime stoppers organizations in forwarding information about criminal acts to the appropriate law enforcement agencies; and

(4) Help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Records of a crime stoppers organization concerning a report of criminal activity shall not be compelled to be produced before a court or other tribunal except on the order of the Kentucky Supreme Court.

(2) Records of a crime stoppers organization relating to reports of criminal acts shall be confidential.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) A person who accepts a report of criminal activity on behalf of a crime stoppers organization shall be guilty of unlawful disclosure of information if the person intentionally or knowingly divulges to a person not employed by a law enforcement agency the identity of the person who made the report without the consent of the person who made the report.

(2) Unlawful disclosure of information under this section shall be a Class A misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty authorized by law, after a defendant has been convicted of an offense, excluding offenses committed under KRS Chapters 186 and 189, the judge shall order a defendant to repay all or part of a reward paid by a crime stoppers organization.

(2) In determining the amount the defendant shall repay to a crime stoppers organization under subsection (1) of this section, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the prosecuting attorney with due regard for the confidentiality of the crime stoppers organization records.

(3) In this section, "crime stoppers organization" means an organization as defined by Section 1 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Upon an order to repay a reward or part of a reward under Section 5 of this Act, the court shall assess this cost against the defendant in the same manner as other costs of prosecution are assessed against a defendant. The court shall order the defendant to:

(a) Pay the entire amount required when sentence is pronounced; or

(b) Pay the entire amount required at a later date specified by the court.

(2) After receiving a payment from a person ordered to make the payment under this section, the clerk of the court shall:

(a) Make a record of the payment;

(b) Forward the payment to the designated crime stoppers organization; and

(c) Record the forwarding of the payment.

Section 7. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere; and

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the state treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) ***In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by Section 1 of this Act, relative to the probationer.***

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6)[~~(5)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

HB 265, AN ACT relating to microbreweries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.157 is amended to read as follows:

(1) A microbrewery license shall authorize the licensee to perform the following functions:

(a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at such microbrewery shall not exceed ***twenty-five thousand (25,000)*** [~~twelve thousand five hundred (12,500)~~] barrels in one (1) year;

(b) Serve on the premises complimentary samples of malt beverages produced by such microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;

(c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors.

(2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.

(3) In accordance with the provisions of this section, a microbrewery license holder may also hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section.

(4) A microbrewery shall not be located in dry territory.

(5) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section.

The Committee on Agriculture and Small Business reported **HB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies, or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;

(12) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(13) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81;

(14) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(15) Motor vehicles registered pursuant to the provisions of KRS 186.050(6);

(16) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(17) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230; [~~and~~]

(18) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095***; and***

(19) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800.

The Committee on Appropriations and Revenue reported **HB 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) ***Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry the products of which ordinarily constitute food for human consumption;***

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10)[~~(9)~~] Machinery for new and expanded industry;

(11)[~~(10)~~] Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12)[~~(11)~~] Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1992;

(13)[~~(12)~~] Tombstones and other memorial grave markers;

(14)[~~(13)~~] On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15)[~~(14)~~] On-farm facilities used exclusively for raising chickens. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16)[~~(15)~~] Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17)[~~(16)~~] Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18)[~~(17)~~] Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19)[~~(18)~~] Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20)[~~(19)~~] Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21)[~~(20)~~] Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1992;

(22)[~~(21)~~] Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program; and

(23)[~~(22)~~] Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes.

The Committee on Appropriations and Revenue reported **HB 3** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 3, AN ACT relating to a tax refund designation for veterans' programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

A taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the veterans' program trust fund established by KRS 40.460(2)(b), may designate an amount, not to exceed the amount of the refund, to be paid to the veterans' program trust fund. The designation shall not increase or decrease the amount of the income tax liability of a taxpayer, but it shall reduce the income tax refund of the taxpayer by the amount designated.

The Committee on Judiciary reported **HB 123**, with Committee Amendment attached thereto, and **HB 179** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 123, AN ACT relating to community corrections programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) In addition to its responsibilities under KRS 196.081, the Kentucky State Corrections Commission shall administer the provisions of Sections 1 to 9 of this Act.

(2) The purposes of Sections 1 to 9 of this Act are to impose community-based sanctions in light of the needs of crime victims and the community to reduce prison overcrowding and improve management within the Corrections Cabinet by providing the judicial system with sentences to be used in lieu of, at less cost, and to better effect on both victims, the community, and the offender than imprisonment. In furtherance of this purpose, Sections 1 to 9 of this Act provide for the following:

(a) Development of sentencing alternatives to incarceration for certain individuals convicted of a felony;

(b) Increased opportunities and requirements for certain individuals convicted of a felony to make restitution to victims of crime and the community through financial reimbursement or community service;

(c) Local involvement to assure that community corrections programs are specifically designed to meet the needs of the sentencing court and the community; and

(d) Reduced expenditures of state funds through an in increase in alternatives to incarceration so that new prisons need not be built or new space added.

SECTION 2. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context otherwise requires:

(1) "Community corrections program" means a local government agency, private nonprofit, or charitable organization within the judicial circuit which shall perform one (1) or more of the following:

(a) Prepare community penalties plans;

(b) Directly provide, arrange, or contract with public and private agencies for sentencing services for offenders; and

(c) Monitor the progress of offenders placed on community penalty plans or who receive sentencing services through provisions of Sections 1 to 9 of this Act.

(2) "Community corrections programs plan" means a written plan for the development, implementation operation, and improvement of a community corrections program.

(3) "Community penalties plan" means a plan presented in writing to the sentencing judge which provides a detailed description of and rationale for the targeted offender's proposed sentence to a community corrections program or to one (1) or more special programs, conditions of probation, community punishments, or sanctions in lieu of lengthy incarceration.

(4) "Director" means the director of the Kentucky State Corrections Commission.

(5) "Judicial circuit" means the circuits prescribed by KRS 23A.020.

(6) "Targeted offenders" means persons convicted of one (1) or more felonies who under application of law are eligible for probation or suspension of sentence or a minimum period of incarceration not to exceed one (1) year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) The director shall award grants to community corrections programs in accordance with the policies established by Sections 1 to 9 of this Act and in accordance with any laws made for that purpose, including appropriations acts and provisions in appropriations acts, and shall adopt administrative regulations for the implementation, operation, and monitoring of community corrections programs.

(2) Grants shall be awarded by the director to community corrections programs whose community corrections program plans meet the requirements set forth in Section 5 of this Act and which in the director's judgment promise to meet the goals set forth in Sections 1 to 9 of this Act. Grants shall be awarded to encourage a range of services in each jurisdiction.

(3) Grants may be awarded only to programs or agencies which have established community corrections boards as provided in Section 6 of this Act unless the director determines that the program or agency is governed by a board which will serve the same functions as described in Sections 1 to 9 of this Act, and that establishment of a new or additional board as described in Section 6 of this Act would impose an administrative burden upon or pose a conflict of interest for the program or agency.

(4) Grants shall not be awarded to programs that have failed to accomplish the purposes set forth in Section 1 of this Act and that show no promise of doing so in the future, as determined pursuant to Section 8 of this Act.

(5) Preference in funding may be given to areas of the state in which programs and services do not exist or are largely inadequate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

A community corrections program shall be responsible for providing services for targeting offenders which shall include one (1) or more of the following:

(1) Preparing detailed community penalty plans for presentation to the prosecution, the sentencing judge, and by the offender's attorney.

(2) Providing treatment, punishment, management, supervision, rehabilitation, mentoring, employment, and other services to targeted offenders, or contracting or arranging with public or private agencies for services for targeted offenders, as described in the community corrections plan.

(3) Monitoring the progress of offenders under community penalty plans.

(4) A community corrections program shall be responsible for assessing the needs of victims for restitution or other types of assistance resulting from the crime, and for tailoring community-based sanctions for the offender which correspond to the needs of the victim and the community.

SECTION 5. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

Agencies applying for grants under Sections 1 to 9 of this Act shall prepare a community corrections program plan for the judicial circuit, as prescribed by the director. More than one (1) community corrections program plan may be prepared, submitted, and approved for any one (1) judicial circuit. The plan shall include:

(1) Objectives of the community corrections program described in the community corrections program plan.

(2) Realistic goals for reduction of offenders committed to prison for each county within the judicial circuit, and a system of monitoring the number of commitments to prison.

(3) Procedures for identifying targeted offenders, and a plan for referral of targeted offenders to the community corrections program.

(4) Procedures for preparing and presenting community penalty plans to the court, when applicable.

(5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.

(6) Procedures for monitoring the progress of offenders on community penalty plans and for cooperating with the probation personnel who have supervisory responsibility for the offender, when applicable.

(7) Procedures for returning offenders who do not comply with their community penalty plan to court for action by the court.

(8) Procedures for evaluating the program's effect on numbers of prison commitments.

SECTION 6. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

Each community corrections program shall establish a community corrections board to provide direction and assistance to the community corrections program in the design, implementation and evaluation of the community corrections program plan. Community corrections boards shall be organized as nonprofit corporations under KRS Chapter 273. The community corrections board shall consist of not less than eight (8) members, and shall include, insofar as possible, judges, Commonwealth's attorneys, defense attorneys, crime victims or survivors, community leaders, social workers, law-enforcement officers, probation offices, and other interested persons. Members of the board shall receive no compensation for their duties as board members. The board shall be subject to the open meetings law and the open records law as provided for in KRS Chapter 61. The community corrections board shall meet on a regular basis, and its duties shall include, but are not limited to, the following:

(1) Development and recommendation of an annual budget for the community corrections program;

(2) Selection of new or additional board members;

(3) Arranging for a private and independent annual audit; and

(4) Development of procedures for contracting for services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

Funds provided for use under the provision of Section 1 to 9 of this Act shall not be used for the operating costs, construction, or any other costs associated with local jail confinement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS;

The director shall evaluate each community corrections program on an annual basis to determine the degree to which the prison commitments the program has accomplished the purposes set forth in Section 1 of this Act. The director shall not renew or continue a program that has failed to accomplish those purposes and that shows no promise of doing so in the future, after allowing for changes in the number of convictions.

Section 9. KRS 196.081 is amended to read as follows:

(1) To facilitate the need for comprehensive planning for the Corrections Cabinet and for related matters the Kentucky State Corrections Commission is hereby created. The commission shall consist of twelve (12) members as follows:

(a) The Attorney General;

(b) The secretary of the Justice Cabinet;

(c) The secretary of the Corrections Cabinet;

(d) The chairman of the Parole Board;

(e) The secretary of the Cabinet for Human Resources;

(f) A county jailer chosen by the Governor;

(g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;

(h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;

(i) A representative from a law enforcement agency, appointed by the Governor;

(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and

(k) The state Public Advocate.

(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.

(3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.

(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.

(6) The commission shall:

(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;

(b) Develop a six (6) year plan for Corrections Cabinet operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;

(c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;

(d) Assist the Corrections Cabinet in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;

(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Corrections Cabinet budget proposals, to insure consistency with the six (6) year plan;

(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;

(g) Receive regular reports from the Corrections Cabinet, on a schedule established by the commission, as to the cabinet's progress in complying with the six (6) year plan;

(h) Review and make recommendations to the cabinet on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;

(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;

(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole; and

(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department of Social Services of the Cabinet for Human Resources, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation***; and***

(l) Administer the provisions of Sections 1 to 9 of this Act.

(7) The six (6) year plan shall consist of at least the following elements:

(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Corrections Cabinet;

(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;

(c) The administrative structure of the Corrections Cabinet;

(d) Prison population projections for the six (6) year plan period;

(e) Education, rehabilitation, and prison industries programs administered by the Corrections Cabinet;

(f) The inmate labor program administered by the cabinet; and

(g) Contingency plans to deal with unexpected increases in prison population.

(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

The Committee Amendment No. 1 to **HB 123** is as follows:

Amend printed copy of **HB 123** on page 3, line 11, following "***persons***" to add "***charged with or***"

HB 179, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any weapon:

(a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(b) Any knife other than an ordinary pocket knife or hunting knife;

(c) Billy, nightstick, or club;

(d) Blackjack or slapjack;

(e) Nunchaku karate sticks;

(f) Shuriken or death star; or

(g) Artificial knuckles made from metal, plastic or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Corrections Cabinet may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) ***"Substantial physical injury" means physical injury which causes temporary loss or impairment of any function of any bodily organ, or which requires medical treatment, or which prevents the injured person from performing any type of work for a period of forty-eight (48) hours or more.***

(17)"Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral; and

(18)[~~(17)~~] "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

Section 2. KRS 508.025 is amended to read as follows:

(1) A person is guilty of assault ***against a peace officer*** [~~in the third degree~~] when:

(a) With recklessness he causes or attempts to cause physical injury to a state, county, city, or federal peace officer, employee of a detention facility, or probation and parole officer by means of a deadly weapon or a dangerous instrument; or

(b) Being a person confined in a detention facility, he inflicts physical injury upon or throws or causes feces or urine to be thrown upon an employee of the detention facility.

(2) Assault ***against a peace officer*** [~~in the third degree~~] is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of assault in the third degree when:

(a) With recklessness he causes serious physical injury to another person; or

(b) He intentionally causes substantial physical injury to another person.

(2) Assault in the third degree is a Class D felony.

Section 4. KRS 508.040 is amended to read as follows:

(1) In any prosecution under KRS 508.010, 508.020, ***Section 3 of this Act,*** or 508.030 in which intentionally causing physical injury***, or substantial physical injury,*** or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

(2) An assault committed under the influence of extreme emotional disturbance is:

(a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; [~~or~~]

(b) ***A class A misdemeanor when it would constitute an assault in the third degree if not committed under the influence of an extreme emotional disturbance; or*** *(c)* A Class B misdemeanor when it would constitute an assault in the fourth degree if not committed under the influence of an extreme emotional disturbance.

Section 5. KRS 61.912 is amended to read as follows:

Any duly commissioned special law enforcement officer shall, while performing law enforcement duties upon the public property he is hired to protect, be empowered to arrest:

(1) Persons committing, in his presence and upon the public property he is hired to protect, any misdemeanor, any traffic violation, or any other violation as defined by KRS 500.080[~~(17)~~];

(2) Provided there exists probable cause to believe a felony has been committed upon the premises he is hired to protect, any person whom the officer reasonably and actually believes to have committed such felony upon the public property.

Section 6. KRS 61.914 is amended to read as follows:

Duly commissioned special law enforcement officers shall have the power to issue tickets for parking violations committed upon the public property in their presence and the power of peace officers under KRS 431.015 to issue citations for misdemeanors, and other violations as defined by KRS 500.080[~~(17)~~], committed in their presence upon the public property.

Orders of the Day

HB 12 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 12** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See January 21, 1992 roll call on **HB 12** - Appendix.)

HB 12 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 12** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 48** be passed.

On the roll call the vote was: Yeas 90, Nays 2. (See January 21, 1992 roll call on **HB 48** - Appendix.)

HB 48 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 48** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 14**, by Representative Morris:

Amend printed copy of **HB 14** on page 2, line 14, by inserting between lines 13 and 14 the following:

"***(2) At least one member of the board appointed pursuant to the provisions of subsection (1) of this section shall be from each congressional district. No more than two members shall be from the same congressional district.***"; and

By renumbering the remaining subsections accordingly.

Orders of the Day (Continued)

HB 56, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Committee Amendment No. 1 to **HB 56**. Agreed.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 56**. Agreed.

Representative Sheehan moved that **HB 56**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 21, 1992 roll call on **HB 56** - Appendix.)

HB 56, as amended, was passed.

Representative Sheehan moved the adoption of the Floor Title Amendment to **HB 56**. Agreed; and the title was agreed to.

Representative Sheehan moved that the vote by which **HB 56**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 108** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See January 21, 1992 roll call on **HB 108** - Appendix.)

HB 108 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 108** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 117 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 117** be passed.

On the roll call the vote was: Yeas 75, Nays 14. (See January 21, 1992 roll call on **HB 117** - Appendix.)

HB 117 was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 117** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 54** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See January 21, 1992 roll call on **HB 54** - Appendix.)

HB 54 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 54** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 57 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 57** be passed.

On the roll call the vote was: Yeas 81, Nays 8. (See January 21, 1992 roll call on **HB 57** - Appendix.)

HB 57 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 57** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 194** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 21, 1992 roll call on **HB 194** - Appendix.)

HB 194 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 194** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the introduction of guests. Agreed.

Representative Sanders moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Sanders moved the adoption of the following **HR 37**:

HR 37, A RESOLUTION honoring the Grayson County Middle School students for their expressions of true Kentucky citizenship.

WHEREAS, through the leadership of Pat Logsdon the Grayson County Middle School students are becoming informed on the operation of state government; and

WHEREAS, these young Kentuckians are learning about the legislature, the branch of government closest to the people and the one through which the individual Kentuckian has the most direct input; and

WHEREAS, these future Kentucky voters are helping build a better tomorrow for our great Commonwealth; and

WHEREAS, hopefully these aspiring Kentuckians will involve themselves in government and exercise their power to vote upon reaching voting age;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Grayson County Middle School students and Pat Logsdon are recognized for their dedication and commitment to fostering a better tomorrow for all Kentuckians.

Section 2. That the Clerk of the House forward a copy of this Resolution to Pat Logsdon, Grayson County Middle School, 726 Mill Street, Leitchfield, Kentucky 42754.

HR 37 was adopted by voice vote.

Representative Farrow moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Farrow moved the adoption of the following Legislative Citation No. 5. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends Officer Logan Hargis for his courage, compassion and assistance offered to Leigh Ann Mullins. While on routine patrol, Officer Hargis spotted a distressed motorist seeking emergency medical assistance. Upon being advised of the situation, Officer Hargis performed the Heimlich maneuver on fourteen-year old, Leigh Ann Mullins.

His quality of mind and professional skills guided him in the administration of medical attention until Leigh Ann began to breath again. Officer Hargis, then rushed Leigh Ann to the hospital for further treatment.

This prestigious body joins Representative Mark Farrow in commending Logan Hargis for his heroic actions.

Representative Long moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 39, by Representative Long: A RESOLUTION adjourning in honor of Dr. Donald Chatham upon the occasion of his retirement.

Representative Long moved the adoption of the following **HR 39**:

HR 39, A RESOLUTION adjourning in honor of Dr. Donald Chatham upon the occasion of his retirement.

WHEREAS, Dr. Donald Chatham has spread the wealth of health to the community of Shelbyville since 1952; and

WHEREAS, Dr. Donald Chatham has relieved sickness, languor, and suffering and brought health to many in this community; and

WHEREAS, Dr. Donald Chatham is the president-founder of the Family Physician Associates, a four-man family practice group; and

WHEREAS, this conscientious medical professional has been a trustee of the Kentucky Medical Association for ten years, where he has served on the Medical Scholarship Fund Committee and as chairman of the Senior Day Committee; and

WHEREAS, Dr. Donald Chatham has given cheerfully, quickly, and without hesitation to the community of Shelbyville through service to Kings Daughters Hospital, the Whitney M. Young Manpower Center, Georgetown College, the Independent School District, the County Board of Health, and the municipal government; and

WHEREAS, this dedicated physician has received several well-deserved honors including, the Distinguished Service Award from the Shelbyville Chamber of Commerce, the Distinguished Graduate Award from Georgetown College, and the 1988 Boss of the Year Award from the Shelbyville Business and Professional Womens Club; and

WHEREAS, the community of Shelbyville will be forever grateful for the generous care Dr. Donald Chatham has given them;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Dr. Donald Chatham and praises him for his service to the community of Shelbyville.

Section 2. That this honorable body wishes Dr. Donald Chatham great joy in his retirement.

Section 3. That when the House of Representatives does adjourn this day, it does so in honor of Dr. Donald Chatham.

Section 4. That the Clerk of the House is directed to send a copy of the Resolution to Dr. Donald Chatham, 813 Plainview Drive, Shelbyville, Kentucky 40065.

HR 39 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 307, by Representative Burch: AN ACT relating to radiation control.

HB 308, by Representative Burch: AN ACT relating to access to maternal and child health services.

HB 309, by Representative Noe: AN ACT relating to the certification of school employees.

HB 310, by Representative Overstreet: AN ACT relating to rural hospitals and declaring an emergency.

HB 311, by Representatives P. Clark and Wayne: AN ACT relating to recording of conveyances of real property.

HB 312, by Representatives Gedling, Crupper, Sanders and Lyne: AN ACT relating to jury service.

HB 313, by Representatives Turner, Keith, Nunn, Allen, Mack, Mason, Hatcher, Lile, Todd and Casebier: AN ACT relating to secret ballots.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 32, HJR 11, HCR 13, HB 31, HB 173, HB 138**

State Government: **HB 139, HB 233, HB 239, HB 263, HB 258, HB 267**

Business Organizations and Professions: **HB 94**

Agriculture and Small Business: **HB 259**

Banking and Insurance: **HB 162**

Natural Resources and Environmental Protection: **HB 60**

Motions, Petitions and Communications (Continued)

Representative Maggard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 48**. Agreed.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on 149. Agreed.

Representative Freibert moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that she be recorded as voting "yea" on 108. Agreed.

Announcements

The following meetings were announced:

Labor and Industry, 12 Noon, January 22, 1992.

Counties and Special Districts, 8:30 a.m., January 22, 1992.

Economic Development, Joint Meeting with Senate, upon adjournment, January 23, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, January 22, 1992.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 3—Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 22, 1992

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 21, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 19**, by Representative Bentley:

Amend printed copy of **HB 19** on page 1, line 11, by inserting after "bid." the following: ***"If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ten thousand dollars ($10,000), the fiscal court requirement shall prevail."***

Representative K. Harper moved that the rules be suspended to grant floor privileges and to introduce and act upon a Resolution. Agreed.

HR 40, by Representative K. Harper: A RESOLUTION honoring the Beechwood High School Class A champion football team and their coach, Mike Yeagle.

Representative K. Harper moved the adoption of the following **HR 40**:

HR 40, A RESOLUTION honoring the Beechwood High School Class A champion football team and their coach, Mike Yeagle.

WHEREAS, the Beechwood Tigers football team claimed the Class A championship with a 15-0 win/loss record for the season; and

WHEREAS, Coach Mike Yeagle, in his first year at Beechwood High, was chosen as Northern Kentucky Coach of the Year; and

WHEREAS, Brandon Berger, Beechwood's fullback of considerable talent, was chosen as Northern Kentucky Player of the Year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body does hereby congratulate Coach Mike Yeagle and his state championship Beechwood Tigers football team for claiming the Class A title.

Section 2. That the House of Representatives applauds the teamwork and support provided by the assistant coaches and Principal Gene Sell and Superintendent Daniel L. Shull.

Section 3. That the Clerk of the House of Representatives is directed to transmit six copies of this Resolution to Coach Mike Yeagle, Beechwood High School, 41017 Beechwood Road, Fort Mitchell, Kentucky.

HR 40 was adopted by voice vote.

Representative K. Harper moved that a call of the roll be taken to show co-sponsors of **HR 40**. Agreed.

On the roll call the vote was yeas 97—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Senate Message

Announcing passage of **SB 72**. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 314, by Representative Butler: AN ACT relating to nursing.

HB 315, by Representative Richards: AN ACT relating to disability and survivor benefits and declaring an emergency.

HB 316, by Representative Richardson: AN ACT relating to mortgages.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Education: **HB 309**

Elections and Constitutional Amendments: **HJR 38, HB 313**

Health and Welfare: **HB 307, HB 308, HB 310**

Judiciary: **HB 311, HB 312**

Report of Committees

The Clerk announced that the Committee on Committees has made the following assignment: Representative Bowling to the Committee on Tourism Development and Energy.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 159, HB 237, HB 269**

Cities: **HB 287**

Report of Committees (Continued)

The Committee on Counties and Special Districts reported **HB 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.180 is amended to read as follows:

(1) The district shall have power to make and promulgate all rules and regulations proper or necessary to regulate the use, operation, and maintenance of property and facilities under its control, and to carry into effect the powers granted the district by KRS 76.010 to 76.295. The jurisdiction of the district shall extend outside of the district area and outside of construction subdistricts for regulation of any sewers, drains, or watercourses, which by natural flow, or otherwise, empty into or flow through any part of the district area, a construction subdistrict, or the district facilities, or are used by the district or flow through or are constructed in the county in which ***the*** [~~such~~] district exists.

(2) Any person or corporation, public or private, impacted by the exercise of powers granted the district by KRS 76.010 to 76.295, may appeal a decision of the district to the board. The appeal shall be in writing, and shall state the circumstances of the district action, why the appellant is aggrieved, and any citations

of regulations or statutes the appellant believes to be pertinent to his appeal. The appellant shall also advise the board of the days of the week and times when a hearing on the matter would be most convenient. The board shall schedule a hearing to be held within thirty (30) days of receipt of the appeal, and shall inform the appellant in writing of the date, time, and location of the hearing. The board may appoint three (3) or more of its members to hear the appeal and the decision of those appointed shall be a decision of the board. The board shall not hear appeals pursuant to this section on the exercise of the power of eminent domain or on the schedule of rates, rentals, and charges approved by the fiscal court or the legislative body of a city of the first class.

(3) An appellant aggrieved by the board's decision may appeal the board's action to the fiscal court if his appeal relates to property outside the city of the first class, or to the city legislative body if his appeal relates to property within the city. The city legislative body may appoint three (3) or more of its members to hear the appeal and the decision of those appointed shall be the decision of the legislative body. The appeal shall be in writing, shall state the appellant's reasons for dissatisfaction with the board's decision, and shall cite any regulations or statutes the appellant believes to be pertinent to his appeal. The board shall forward to the fiscal court or legislative body its conclusions in the case and supporting documentation which would assist the fiscal court or legislative body in making its determination. The fiscal court shall schedule a hearing to be held within thirty (30) days of receipt of the appeal, and shall inform the appellant in writing of the date, time, and location of the hearing. The fiscal court or the legislative body may uphold, reverse or amend the decision of the board.

The Committee on Education reported **HB 182**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 182, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.132 is amended to read as follows:

(1) The chief state school officer shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher, or other public school officer as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, [~~or~~] willful neglect of duty***, or negligence***.

(2) The chief state school officer shall recommend by written charges the suspension by the State Board for Elementary and Secondary Education of any district board member***,*** [~~or~~] superintendent of schools***, or other public school officer or employee*** as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, [~~or~~] willful neglect of duty***, or negligence, or who shall be removed pursuant to KRS 158.6455(7)***. The State Board for Elementary and Secondary Education shall, after a summary hearing as provided by administrative regulations, suspend any district board of education member***,*** [~~or~~] superintendent of schools, ***or other public school officer or employee,*** who in the opinion of the majority of the State Board for Elementary and Secondary Education is guilty of immorality, misconduct in office, incompetence, [~~or~~] willful neglect of duty***, or negligence, or who shall be removed pursuant to KRS 158.6455(7). The*** [~~Such~~] action by the State Board for Elementary and Secondary Education may be taken upon a recommendation of the chief state school officer, or ***the*** [~~such~~] action may be taken by a majority vote of the State Board for Elementary and Secondary Education without recommendation from the chief state school officer.

(3) The State Board for Elementary and Secondary Education may suspend a district superintendent of schools ***or other public school officer or employee*** under subsection (2) of this section ***or remove him pursuant to subsection (5) of this section*** only if after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily, or capriciously, or if a recommendation to the district board would have been futile.

(4) Any officer suspended by the State Board for Elementary and Secondary Education under subsection (2) of this section shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the State Board for Elementary and Secondary Education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the State Board for Elementary and Secondary Education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the State Board for Elementary and Secondary Education may remove the officer by a majority vote and such dismissal shall be final.

(5) ***As an alternative to first seeking suspension, the chief state school officer may recommend by written charges the removal by the State Board for Elementary and Secondary Education of any district board member, superintendent of schools, or other public school officer or employee as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or negligence, or who shall be removed pursuant to KRS 158.6455(7). The officer against whom the written charges are issued by the chief state school officer shall be furnished with the written charges and notice of the date and place at which the officer may appear before the state board to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of the charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the State Board for Elementary and Secondary Education of his intention to appear and answer the charges. If the officer fails to notify the board of his intention to appear and answer the charges, the State Board for Elementary and Secondary Education may remove the officer by a majority vote and the dismissal shall be final.***

(6) Upon receipt of the officer's notice of intention to appear and answer the charges, the State Board for Elementary and Secondary Education shall issue subpoenas [~~as shall be~~] necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the accused officer. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The State Board for Elementary and Secondary Education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(7)[~~(6)~~] Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended ***if applicable***, the State Board for Elementary and Secondary Education may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare written findings specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension ***if applicable***, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.

(8)[~~(7)~~] The officer shall have a right to appeal on the record to the ***Franklin*** Circuit Court [~~located in the county of the school district~~]. If the appeal is not made within thirty (30) days after removal, then the decision of the State Board for Elementary and Secondary Education shall be final. The appeal shall be an original action in court and shall be commenced by the filing of a petition against the State Board for Elementary and Secondary Education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in the appeal, the State Board for Elementary and Secondary Education shall forthwith transmit to the clerk of the court for filing a transcript of the original notice of charges and a transcript of all evidence considered at the hearing, where the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the State Board for Elementary and Secondary Education ***to determine whether the decision of the state board was arbitrary and capricious.*** [~~Upon final hearing,~~] The court shall grant or deny the relief asked for in the petition. Either the officer or the State Board for Elementary and Secondary Education may appeal the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the State Department of Education.

The Committee Substitute to **HB 182** is as follows:

HB 182, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.132 is amended to read as follows:

As used in this section, except subsection (1), "public school officer" means a person who previously served as a superintendent of schools or board member during which time charges were brought against him under this section.

(1) The chief state school officer shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher, or other public school officer as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, [~~or~~] willful neglect of duty***, or nonfeasance.***

(2) The chief state school officer shall recommend by written charges the suspension by the State Board for Elementary and Secondary Education of any district board member***,*** [~~or~~] superintendent of schools***, or other public school officer*** as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, [~~or~~] willful neglect of duty***, or nonfeasance, or who shall be removed pursuant to KRS***

158.6455(7). The State Board for Elementary and Secondary Education shall, after a summary hearing as provided by administrative regulations, suspend any district board of education member***,*** [~~or~~] superintendent of schools, ***or other public school officer,*** who in the opinion of the majority of the State Board for Elementary and Secondary Education is guilty of immorality, misconduct in office, incompetence, [~~or~~] willful neglect of duty***, or nonfeasance, or who shall be removed pursuant to KRS 158.6455(7). The*** [~~Such~~] action by the State Board for Elementary and Secondary Education may be taken upon a recommendation of the chief state school officer, or ***the*** [~~such~~] action may be taken by a majority vote of the State Board for Elementary and Secondary Education without recommendation from the chief state school officer.

(3) The State Board for Elementary and Secondary Education may suspend a district superintendent of schools ***or other public school officer*** under subsection (2) of this section ***or remove him pursuant to subsection (5) of this section*** only if after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily, or capriciously, or if a recommendation to the district board would have been futile.

(4) Any officer suspended by the State Board for Elementary and Secondary Education under subsection (2) of this section shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the State Board for Elementary and Secondary Education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the State Board for Elementary and Secondary Education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the State Board for Elementary and Secondary Education may remove the officer by a majority vote and such dismissal shall be final.

(5) ***As an alternative to first seeking suspension, the chief state school officer may recommend by written charges the removal by the State Board for Elementary and Secondary Education of any district board member, superintendent of schools, or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance, or who shall be removed pursuant to KRS 158.6455(7). The officer against whom the written charges are issued by the chief state school officer shall be furnished with the written charges and notice of the date and place at which the officer may appear before the state board to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of the charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the State Board for Elementary and Secondary Education of his intention to appear and answer the charges. If the officer fails to notify the board of his intention to appear and answer the charges, the State Board for Elementary and Secondary Education may remove the officer by a majority vote and the dismissal shall be final.***

(6) Upon receipt of the officer's notice of intention to appear and answer the charges, the State Board for Elementary and Secondary Education shall issue subpoenas [~~as shall be~~] necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the accused ***former or current superintendent and shall be public when testimony is taken for board members*** [~~officer~~]. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The State Board for Elementary and Secondary Education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(7)[~~(6)~~] Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended ***if applicable***, the State Board for Elementary and Secondary Education ***may meet in closed session to consider the evidence and*** may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare written findings specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension ***if applicable***, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.

(8)[~~(7)~~] The officer shall have a right to appeal on the record to the ***Franklin*** Circuit Court [~~located in the county of the school district~~]. If the appeal is not made within thirty (30) days after removal, then the decision of the State Board for Elementary and Secondary Education shall be final. The appeal shall be an original action in court and shall be commenced by the filing of a petition against the State Board for Elementary and Secondary Education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in the appeal, the State Board for Elementary and Secondary Education shall forthwith transmit to the clerk of the court for filing a transcript of the original notice of charges and a transcript of all evidence considered at the hearing, where the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the State Board for Elementary and Secondary Education ***to determine whether the decision of the state board was arbitrary and capricious.*** [~~Upon final hearing,~~] The court shall grant or deny the relief asked for in the petition. Either the officer or the State Board for Elementary and Secondary Education may appeal the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the State Department of Education.

The Committee on Labor and Industry reported **HB 215**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 215, AN ACT relating to liquified petroleum gas containers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 234.190 is amended to read as follows:

(1) No person shall sell, install, fill, refill, deliver or permit to be delivered***,*** or use in any manner any liquefied petroleum ***gas*** container unless ***the*** [~~such~~] container is owned by ***the*** [~~such~~] person or its use is authorized by ***its*** [~~the~~] owner [~~thereof~~].

(2) No person shall dismantle, evacuate, service, ***relocate, make or break any connections to,*** [~~tamper with~~] or deface any liquefied petroleum ***gas*** container ***or its regulatory equipment*** unless ***the*** [~~such~~] container is owned by the person or ***the*** [~~such~~] action is authorized by the owner of ***the*** [~~said~~] container.

Section 2. KRS 234.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 234.100 to 234.160 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(2) Any person who violates any regulation promulgated under provisions of KRS 234.100 to 234.160 and after having been given notice to cease and desist, unless ***the*** [~~said~~] violation is corrected within ten (10) days, shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day ***the*** [~~said~~] violation continues subsequent to the ten (10) day period.

(3) When any person violates any provision of KRS 234.100 to 234.180 or regulations, which violation constitutes a public danger, an immediate notice to cease and desist may be issued, and failure to comply with notice shall be held in violation, and failure to comply immediately upon presentation of ***the*** [~~said~~] notice shall result in a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day ***the*** [~~said~~] violation continues subsequent to the day of issuance of notice.

(4) Any person violating the provisions of KRS 234.200 to 234.260 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than sixty (60) days.

(5) Any firm or corporation violating the provisions of KRS 234.200 to 234.260 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person violating any provision of KRS 234.430 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense, he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary.

(7) Any person violating ***any*** [~~the~~] provision of KRS 234.190 [~~prohibiting the filling of a tank without owner permission~~] shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for the first offense. Upon conviction of a second offense, and subsequent offenses, the violator shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000)***,*** [~~or~~] imprisoned in the county jail for not more than sixty (60) days, or both.

The Committee Amendment No. 1 to **HB 215** is as follows:

Amend printed copy of **HB 215** on page 1, line 10, after the word "container", by inserting the words "***or its connections are***" and by bracketing and striking through the word "is".

The Committee on Tourism Development and Energy reported **HB 62**, with Committee Substitute attached thereto, and **HB 191**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 62, AN ACT relating to tourist and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.350 is amended to read as follows:

(1) ***The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in counties containing cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions~~].

(2) ***The local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth cities located therein may, by joint or separate action, establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in counties containing cities other than cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions~~].

(3) ***The local governing bodies of two (2) or more counties that do not have an established county tourist and convention commission may jointly establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in two (2) or more counties, such counties may jointly establish tourist and convention commissions~~].

(4) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.

(5) For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide ***the*** [~~such~~] boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize ***the*** [~~such~~] boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 2. KRS 91A.360 is amended to read as follows:

(1) The commission established pursuant to subsection (2) of KRS 91A.350 shall be composed of seven (7) members to be appointed, ***in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed,*** jointly, by the ***chief elective officials of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief elective official of the local governing body that established the commission. Candidates for appointment to a commission shall be submitted to the appropriate chief elective official or officials*** [~~mayor of the largest city in the county and the county judge/executive~~] in the following manner:

(a) Two (2) commissioners from a list submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list submitted by it.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations.

(d) One (1) commissioner from a list submitted by the chamber of commerce of the ***most populous*** [~~largest~~] city in the county***, which by joint or separate action has established the commission.***

(e) One (1) commissioner by the ***chief elective official*** [~~mayor~~] of the ***most populous*** [~~largest~~] city in the county***, which by joint or separate action has established the commission.***

(f) One (1) commissioner by the ***chief elective official of the county*** [~~county judge/executive~~].

(2) ***A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) through (1)(d), shall be appointed by the appropriate chief elective official or officials within thirty (30) days of receipt of the required lists or the association or associations shall by election appoint a commissioner from the***

list the association submitted. Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the ***appropriate chief elective official or officials*** [~~mayor and county judge/executive~~] shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. ***There shall be no limitation on the number of terms to which a commissioner is reappointed*** [~~If the commission has been established on July 15, 1980 and members have been appointed, appointments initially made for four (4) year terms shall, at the expiration of those terms, once again be made for four (4) year terms. Those appointments may or may not be made to the same individuals as originally appointed~~]. Subsequent appointments shall be for three (3) year terms.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ [~~such~~] personnel and make [~~such~~] contracts [~~as are~~] necessary to [~~effectively~~] carry out the purpose of KRS 91A.350 to 91A.390. ***The*** [~~Such~~] contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. [~~; Provided,~~] Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the ***appropriate chief elective official or officials*** [~~mayor and the county judge/executive~~].

(6) A commissioner may be removed from office, ***by joint or separate action of the appropriate chief elective official or officials, according to the method by which the commission was established, and*** [~~jointly, by the mayor and the county judge/executive,~~] as provided by KRS 65.007. Removals pursuant to this subsection shall not require fiscal court approval.

The Committee Substitute to **HB 62** is as follows:

HB 62, AN ACT relating to tourist and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.350 is amended to read as follows:

(1) ***The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in counties containing cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions~~].

(2) ***The local governing bodies of counties containing cities of the second through sixth classes and the local governing bodies of the cities of the second through sixth classes located therein may, by joint or separate action, establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in counties containing cities other than cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions~~].

(3) ***The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions*** for the purpose of promoting convention and tourist activity [~~in two (2) or more counties, such counties may jointly establish tourist and convention commissions~~].

(4) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.

(5) For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide ***the*** [~~such~~] boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and KRS 103.200 to 103.285; and to authorize ***the*** [~~such~~] boards to build and issue bonds for facilities located on leasehold and permithold land.

Section 2. KRS 91A.360 is amended to read as follows:

(1) The commission established pursuant to subsection (2) of KRS 91A.350 shall be composed of seven (7) members to be appointed, ***in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed,*** jointly, by the ***chief elective officials of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief elective official of the local governing body that established the commission. Candidates for appointment to a commission shall be submitted to the appropriate chief elective official or officials*** [~~mayor of the largest city in the county and the county judge/executive~~] in the following manner:

(a) Two (2) commissioners from a list ***of three (3) or more names*** submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list ***of three (3) or more names*** submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list ***of six (6) or more names*** submitted by it.

(c) One (1) commissioner from a list ***of three (3) or more names*** submitted by the local restaurant association or associations.

(d) One (1) commissioner from a list ***of three (3) or more names*** submitted by the chamber ***or chambers*** of commerce ***existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief elective officials of the participating government units shall jointly appoint one (1) commission member from the aggregate list*** [~~of the largest city in the county~~].

(e) ***Two (2) commissioners appointed in the following manner:***

1. By the chief elective official of the county or city, if the commission has been established by separate action of a county or city; or

2. One (1) each by the chief elective official of the county and by the chief elective official of the most populous city participating in the commission, if the commission has been established by joint action of a county and a city or cities [~~One (1) commissioner by the mayor of the largest city in the county~~].

[~~(f) One (1) commissioner by the county judge/executive.~~]

(2) ***A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(d), shall be appointed by the appropriate chief elective official or officials within thirty (30) days of receipt of the required list or lists; if not, the association or associations shall by election with ten (10) days determine the commissioner from the list or lists submitted by plurality vote of the aggregate membership.*** Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the ***appropriate chief elective official or officials*** [~~mayor and county judge/executive~~] shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. ***There shall be no limitation on the number of terms to which a commissioner is reappointed*** [~~If the commission has been established on July 15, 1980 and members have been appointed, appointments initially made for four (4) year terms shall, at the expiration of those terms, once again be made for four (4) year terms. Those appointments may or may not be made to the same individuals as originally appointed~~]. Subsequent appointments shall be for three (3) year terms.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ [~~such~~] personnel and make [~~such~~] contracts [~~as are~~] necessary to [~~effectively~~] carry out the purpose of KRS 91A.350 to 91A.390. ***The*** [~~Such~~] contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. [~~; Provided,~~] Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the ***associations*** [~~organizations~~] submitting ***lists of*** names from which commission members are selected, [~~and~~] to the ***appropriate chief elective official or officials, and to the local governing body or***

bodies that established the commission that was audited [~~mayor and the county judge/executive~~]. ***A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.***

(6) A commissioner may be removed from office, ***by joint or separate action, of the local governing body or bodies that created the commission, consistent with the method by which the commission was established, and*** [~~jointly, by the mayor and the county judge/executive,~~] as provided by KRS 65.007. [~~Removals pursuant to this subsection shall not require fiscal court approval.~~]

Section 3. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. ***The local governing body or bodies of the city, cities, county, or counties that have created a commission by joint or separate action,*** [~~Provision~~] shall ***enact an ordinance that provides*** [~~be made~~] for the collection of the tax and the enforcement of the tax measure enacted ***pursuant to this section.***

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city which establishes a commission pursuant to subsection (1) or (2) of KRS 91A.350 is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued, in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(5) A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

HB 191, AN ACT relating to tourism zones and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that the Kentucky Tourism Zone Authority shall be created and the public purpose of the authority is to create and retain employment in Kentucky's tourism industry. It is the intent of the General Assembly to achieve this purpose by directing the authority to adhere to the following goals, including but not limited to:

(1) Improving the quality of life of individuals that reside within a tourism zone by providing them with opportunities for employment, job training, and community development;

(2) Encouraging tourism development by assisting and retaining existing businesses within a tourism zone; and

(3) Encouraging tourism development by stimulating the creation of new businesses within a tourism zone.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Authority" means the Kentucky Tourism Zone Authority;

(2) "Establishment" means a single physical location where tourism business is conducted and where tourism services or business operations are performed;

(3) "Existing business" means a person, corporation, or other business entity engaged in the active conduct of tourism trade or tourism business at a location within the tourism zone prior to the date the authority designated the area as a tourism zone;

(4) "Local government" means a city, county, urban-county government, or charter county government which may be established pursuant to KRS 67.825 through 67.875;

(5) "New business" means a person, corporation, or other business entity which was not engaged in the active conduct of a tourism trade or tourism business in the tourism zone prior to the date the authority designated the area as a tourism zone, and which becomes engaged in the active conduct of a tourism trade or tourism business within the tourism zone after the date the authority designated the area as a tourism zone;

(6) "Qualified business" means a new business or an existing business that has been certified by the authority to have at least fifty percent (50%) of its employees performing substantially all of its employment services within a tourism zone and meeting one (1) of the following criteria:

(a) In the case of a new business one that employs at least twenty-five percent (25%) of its employees from the targeted workforce; or

(b) In the case of an existing business one that creates new employment opportunity within the tourism zone of not less than a twenty percent (20%) increase in the number of employees or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business. Businesses that are certified based upon an increase in employees shall employ at least twenty-five percent (25%) of the new employees from the targeted workforce;

(7) "Qualified employee" means an employee of a qualified business;

(8) "Targeted workforce" means Kentucky residents:

(a) Who reside within a tourism zone; or

(b) Who have been unemployed for at least ninety (90) days or who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with a qualified business;

(c) For the purpose of this subsection, "Kentucky resident" means a person who has resided in the Commonwealth for at least ninety (90) days;

(9) "Tourism business" means a bona fide business entity that provides a tourism service or trade, and shall include but not be limited to, hotels, motels, restaurants, entertainment establishments, retail stores and automobile service related establishments.

(10) "Tourism zone" means an area designated by the authority as eligible for the benefits provided for in Sections 1 to Section 13 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A local government may, by act of the local legislative body, designate an area within its jurisdiction to be an economically depressed area. The local government may then make written application to the authority to have the area declared to be a tourism zone. The application shall include a description of the location of the area and other information the authority may require.

(2) Two (2) or more local governments may by an act of each respective legislative body, designate an area within their collective jurisdictions to be an economically depressed area. After each local government has enacted the proper ordinances designating the area to be economically depressed for the purpose of applying to the authority for designation as a tourism zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the tourism zone that shall be comprised of representatives from each local government;

(b) A statement establishing the joint board for the life of the tourism zone;

(c) A statement establishing uniform local incentives that shall be offered by each local government;

(d) A statement establishing financial support by each local government for the administration of the joint board; and

(e) Other requirements that may be established by the authority.

(3) A local government with an existing tourism zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other local governments. A local government applying to cross jurisdictional boundaries to amend the area of a tourism zone shall comply with the provisions of subsection (2) of this section.

(4) Upon approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more local governments may make written application to the authority to have the area declared a tourism zone. The application shall include a description of the area and other information the authority may require.

(5) Upon receipt of an application, the authority shall review the application to determine if the area described in the application qualifies to be designated a tourism zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the local government of the fact in writing along with reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A local government may make written application to the authority for purposes of amending the boundaries of an existing tourism zone. A boundary change to an existing tourism zone shall not become effective until after written approval has been granted by the authority.

(2) A local government applying to the authority for an amendment to the boundaries of an existing tourism zone shall certify in writing the following information:

(a) The proposed area for amendment is contiguous to the existing zone;

(b) The proposed area for amendment independently meets the requirements established by Section

5 of this Act; and

(c) A statement documenting the reasons the local government is seeking to amend the boundaries of its existing tourism zone. A detailed map showing original boundary lines and proposed boundary line changes shall be attached to the application.

(3) Prior to granting approval for amending the boundaries of an existing tourism zone, the authority shall verify and document in writing the following:

(a) How amending the boundaries of the existing zone will comply with the goals established pursuant to Section 1 of this Act;

(b) The local government's commitment and incentives to be offered to support the expanded tourism zone;

(c) If two (2) or more local governments are involved, that each local government has met the requirements of Section 3 of this Act;

(d) The local government's attempt to utilize available buildings and properties within the existing zone; and

(e) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone that necessitate amending the boundaries of the existing zone.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Any area of a local government may be designated a tourism zone that:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if the average rate of unemployment in the area for the most recent eighteen (18) month period for which data is available was at least one and one-half (1 1/2) times the average national rate of unemployment for that eighteen (18) month period.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The authority may designate a total of twenty-five (25) tourism zones.

(2) Designation of an area as a tourism zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the fifteenth year following designation.

(3) The authority shall remove the designation of an area as a tourism zone if the area no longer meets the criteria for designation as set out in Sections 1 to 13 of this Act or by administrative regulation, pursuant to KRS Chapter 13A adopted by the authority pursuant to Sections 1 to 13 of this Act. The authority shall establish by administrative regulation, pursuant to KRS Chapter 13A, a procedure for revocation of the designation of a tourism zone. The authority shall ensure that local governments shall be notified in writing of the authority's intent and reasons for considering revocation of the designation. The authority shall establish a reasonable time frame within which the local government may correct the problems cited by the authority to avoid revocation of the tourism zone designation.

(4) A local government that has had a tourism zone designation revoked shall be prohibited from applying for future tourism zone designations for at least five (5) years. The authority may, by administrative regulation, pursuant to KRS Chapter 13A, extend the time frame that a local government is prohibited from participating in the tourism zone program.

(5) If the authority revokes the designation of a tourism zone, it shall immediately begin reviewing the applications of local governments seeking a tourism zone and designate a new area as a tourism zone as soon as possible.

(6) If the authority removes the designation of an area as a tourism zone pursuant to this section, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to Section 10 of this Act until December 31 of the twentieth year from the date of the original designation of the area as a tourism zone.

SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of Sections 1 to 13 of this Act, there is hereby created the Kentucky Tourism Zone Authority consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Tourism Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Hotel and Motel Association; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Restaurant Association; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small tourism business community; two (2) members appointed by the Governor to serve at large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the secretary of the Tourism Cabinet; the secretary of the Tourism Cabinet or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for Human Resources or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Tourism Cabinet, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for Human Resources shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as a tourism zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100) per meeting, not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Tourism Cabinet shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The authority shall administer the provisions of Sections 1 to 13 of this Act, and shall:

(1) Establish by administrative regulation, pursuant to KRS Chapter 13A, a process to monitor compliance by local governments and qualified businesses with the provisions of the tourism zone program;

(2) Initiate contact and fully cooperate with the Revenue Cabinet in the collection of information to determine the fiscal impact of tourism zone tax exemptions on state revenues;

(3) Report annually to the General Assembly no later than October 1 regarding:

(a) The authority's method of monitoring the tourism zone program;

(b) Information on the fiscal impact of tourism zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as a tourism zone pursuant to the provisions of Section 6 of this Act;

(5) Prohibit the certification of businesses in a tourism zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as a tourism zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's tourism zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the tourism zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and community tourism association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

SECTION 9. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish and design for public display a master business license that shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters or any other form of permission required by law to engage in business in a tourism zone.

(2) The authority shall provide information and assistance to persons desiring to locate and engage in business in a tourism zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Responsibility for determining if requested licenses, permits, certificates, approvals, registrations, charters, or other form of permission required by law shall be issued to a qualified business, shall remain with the agency legally authorized to issue the license.

SECTION 10. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A new business, or an existing business certitied on the basis of employee expansion, shall be eligible to receive the tax advantages provided for in this section if the qualified business maintains the percentage of targeted workforce employees required by subsection (6) of Section 2 of this Act for the entire time it is certified as a qualified business in the tourism zone program.

(2) Building materials used in remodeling, rehabilitation, or new construction within a tourism zone shall be exempt from sales and use taxes provided for in KRS Chapter 139.

(3) New and used equipment and machinery purchased and used by a qualified business within a tourism zone shall be exempt from sales and use taxes provided for in KRS Chapter 139. Equipment and machinery may be moved in and out of a tourism zone for business purposes only. In addition, it may not become a permanent fixture at another location and may be only temporarily located elsewhere for maintenance, mechanical failure, or emergency short term replacement.

(4) A qualified business shall receive a tax credit equal to ten percent (10%) of wages paid to each employee who has been unemployed for at least ninety (90) days or who has received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with the qualified business, up to fifteen hundred dollars ($1500) per employee. Any unused credit may be carried forward for up to five (5) years.

(5) A local government may, by an act of the local legislative body, levy an ad valorem tax rate of one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value on qualified property within a tourism zone regardless of the rates provided for in KRS Chapter 132.

SECTION 11. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Individuals residing in a tourism zone may establish a Community Tourism Association Corporation. There shall be one (1) corporation for each geographic community area which shall be defined by the incorporating community residents.

(2) The incorporating community residents shall draft a charter and bylaws for the association suitable for doing business in corporate form. The charter and bylaws shall describe the geographic community area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the community, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular tourism zone in which the community area of the corporation is located.

(3) The incorporating community residents shall send to all residents of the corporation's community area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and bylaws; and

(c) An offer of the stock interest to which each particular resident is entitled without charge.

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a community tourism association corporation. The authority shall not grant the status unless the corporation has complied with the requirements of this section and other requirements as may be adopted by the authority by administrative regulation pursuant to KRS Chapter 13A. Upon granting certification, the authority shall place the corporation's charter and bylaws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of this section. The authority shall give technical assistance to zone residents attempting to start the corporations.

(5) Property within the community area of a certified corporation that is owned by state or a local government and that is not in current use by the government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under the lease shall not exceed one dollar ($1). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this section.

(6) A certified corporation shall be exempt from state and local taxation during the life of the zone in which it is located.

SECTION 12. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of tourism zone tax exemptions on state revenues.

(2) Report annually to the General Assembly no later than October 1 regarding:

(a) The cabinet's method of monitoring the tourism zone program;

(b) Information on the fiscal impact of tourism zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The Revenue Cabinet shall by administrative regulation pursuant to KRS Chapter 13A, amend its sales and use tax return to collect fiscal information on qualified businesses within a tourism zone for purposes of reporting to the General Assembly.

(4) The Revenue Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, to establish a process for the collection of tax information relating to tourism zone tax exemptions.

SECTION 13. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The Cabinet for Human Resources shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 14. To carry out the purposes of this Act, there is appropriated to the Kentucky Tourism Zone Authority out of the general fund in the State Treasury the sum of fifteen thousand dollars ($15,000) for the 1992-93 fiscal year and fifteen thousand dollars ($15,000) for the 1993-94 fiscal year.

The Committee Substitute to **HB 191** is as follows:

HB 191, AN ACT relating to tourism zones and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that it is in the interest of the citizens of the Commonwealth and a public purpose to create and retain employment in Kentucky's tourism industry. It is the intent of the General Assembly to achieve this purpose by creating a Kentucky Tourism Zone Authority that shall adhere to the following goals:

(1) To improve the quality of life of individuals that reside within a tourism zone by providing them with opportunities for employment, job training, and community development;

(2) To encourage tourism development by assisting and retaining existing businesses within a tourism zone; and

(3) To encourage tourism development by stimulating the creation of new businesses within a tourism zone.

SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act:

(1) "Authority" means the Kentucky Tourism Zone Authority;

(2) "Establishment" means a single physical location where tourism business is conducted and where services or business operations related to the tourism industry are performed;

(3) "Existing business" means a person, corporation, or other business entity engaged in the active conduct of a tourism business at a location within the tourism zone prior to the date the authority designated the area as a tourism zone;

(4) "Local government" means a city, county, urban-county government, or charter county government that may be established pursuant to KRS 67.825 through 67.875;

(5) "New business" means a person, corporation, or other business entity that was not engaged in the active conduct of a tourism business in the tourism zone prior to the date the authority designated the area as a tourism zone, and which becomes engaged in the active conduct of a tourism business within the tourism zone after the date the authority designated the area as a tourism zone;

(6) "Qualified business" means a new business or an existing business that has been certified by the authority to have at least fifty percent (50%) of its employees performing substantially all of its employment services within a tourism zone and meeting one (1) of the following criteria:

(a) In the case of a new business one that employs at least twenty-five percent (25%) of its employees from the targeted workforce; or

(b) In the case of an existing business one that creates new employment opportunity within the tourism zone of not less than a twenty percent (20%) increase in the number of employees or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business. Businesses that are certified based upon an increase in employees shall employ at least twenty-five percent (25%) of the new employees from the targeted workforce;

(7) "Qualified employee" means an employee of a qualified business;

(8) "Targeted workforce" means Kentucky residents:

(a) Who reside within a tourism zone; or

(b) Who have been unemployed for at least ninety (90) days or who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with a qualified business;

(c) For the purpose of this subsection, "Kentucky resident" means a person who has resided in the Commonwealth for at least ninety (90) days;

(9) "Tourism business" means a bona fide business entity that provides a service or trade related to the tourism industry, and shall include but not be limited to, hotels, motels, restaurants, entertainment establishments, retail stores and automobile service related establishments.

(10) "Tourism zone" means an area designated by the authority as eligible for the benefits provided for in Sections 9 and 10 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A local government may, by act of the local legislative body, designate an area within its jurisdiction to be an economically depressed area. The local government may then make written application to the authority to have the area declared to be a tourism zone. The application shall include a description of the location of the area and other information the authority may require.

(2) Two (2) or more local governments may by an act of each respective legislative body, designate an area within their collective jurisdictions to be an economically depressed area. After each local government has enacted the proper ordinances designating the area to be economically depressed for the purpose of applying to the authority for designation as a tourism zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the tourism zone that shall be comprised of representatives from each local government;

(b) A statement establishing the joint board for the life of the tourism zone;

(c) A statement establishing uniform local incentives that shall be offered by each local government for the life of the tourism zone;

(d) A statement establishing financial support by each local government for the administration of the joint board for the life of the tourism zone; and

(e) Other requirements that may be established by the authority.

(3) A local government with an existing tourism zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other local governments. A local government applying to cross jurisdictional boundaries to amend the area of a tourism zone shall comply with the provisions of subsection (2) of this section.

(4) Upon approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more local governments may make written application to the authority to have the area declared to be a tourism zone. The application shall include a description of the area and other information the authority may require.

(5) Upon receipt of an application, the authority shall review the application to determine if the area described in the application qualifies to be designated a tourism zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the local government of the fact in writing along with reasons for the denial.

SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A local government may make written application to the authority for purposes of amending the boundaries of an existing tourism zone. A boundary change to an existing tourism zone shall not become effective until after written approval has been granted by the authority.

(2) A local government applying to the authority for an amendment to the boundaries of an existing tourism zone shall certify in writing the following information:

(a) The proposed area for amendment is contiguous to the existing zone;

(b) The proposed area for amendment independently meets the requirements established by Section 5 of this Act; and

(c) A statement documenting the reasons the local government is seeking to amend the boundaries of its existing tourism zone. A detailed map showing original boundary lines and proposed boundary line changes shall be attached to the application.

(3) Prior to granting approval for amending the boundaries of an existing tourism zone, the authority shall verify and document in writing the following:

(a) How amending the boundaries of the existing zone will comply with the goals established pursuant to Section 1 of this Act;

(b) The local government's commitment and incentives to be offered to support the expanded tourism zone;

(c) If two (2) or more local governments are involved, that each local government has met the requirements of Section 3 of this Act;

(d) The local government's attempt to utilize available buildings and properties within the existing zone; and

(e) Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone that necessitate amending the boundaries of the existing zone.

SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) Any area of a local government may be designated a tourism zone that:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if the average rate of unemployment in the area for the most recent eighteen (18) month period for which data is available was at least one and one-half (1 1/2) times the average national rate of unemployment for that eighteen (18) month period.

SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The authority may designate a total of twenty-five (25) tourism zones.

(2) Designation of an area as a tourism zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the fifteenth year following designation.

(3) The authority shall remove the designation of an area as a tourism zone if the area no longer meets the criteria for designation as set out in Sections 1 to 12 of this Act or by administrative regulation, pursuant to KRS Chapter 13A, promulgated by the authority pursuant to Section 8 of this Act. The authority shall establish by promulgation of an administrative regulation, pursuant to KRS Chapter 13A, a procedure for revocation of the designation of a tourism zone. The authority shall ensure that local governments shall be notified in writing of the authority's intent and reasons for considering revocation of the designation. The authority shall establish a reasonable time frame within which the local government may correct the problems cited by the authority to avoid revocation of the tourism zone designation.

(4) A local government that has had a tourism zone designation revoked shall be prohibited from applying for future tourism zone designations for at least five (5) years. The authority may, by promulgation of an administrative regulation, pursuant to KRS Chapter 13A, extend the time frame that a local government is prohibited from participating in the tourism zone program.

(5) If the authority revokes the designation of a tourism zone, it shall immediately begin reviewing the applications of local governments seeking a tourism zone and designate a new area as a tourism zone as soon as possible.

(6) If the authority removes the designation of an area as a tourism zone pursuant to this section, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to Section 10 of this Act until December 31 of the fifteenth year from the date of the original designation of the area as a tourism zone.

SECTION 7. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of carrying out the provisions of Sections 1 to 12 of this Act, there is hereby created the Kentucky Tourism Zone Authority, consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Tourism Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Hotel and Motel Association; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Restaurant Association; one (1) member appointed by the Governor who is currently engaged in the active conduct of a tourism business; two (2) members appointed by the Governor to serve at large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the secretary of the Tourism Cabinet; the secretary of the Tourism Cabinet or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for Human Resources or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Tourism Cabinet, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for Human Resources, members shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as a tourism zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each nongovernmental member of the authority shall receive one hundred dollars ($100) per meeting, not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Tourism Cabinet shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The authority shall administer the provisions of Sections 1 to 12 of this Act, and shall:

(1) Establish by promulgation of an administrative regulation, pursuant to KRS Chapter 13A, a process to monitor compliance by local governments and qualified businesses with the provisions of the tourism zone program;

(2) Initiate contact and fully cooperate with the Revenue Cabinet in the collection of information to determine the fiscal impact of tourism zone tax exemptions on state revenues;

(3) Report annually to the General Assembly no later than October 1 regarding:

(a) The authority's method of monitoring the tourism zone program;

(b) Information on the fiscal impact of tourism zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as a tourism zone pursuant to the provisions of Section 6 of this Act;

(5) Prohibit the certification of businesses in a tourism zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as a tourism zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's tourism zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the tourism zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments and qualified businesses; and

(7) Aggressively review local incentives and commitments on an annual basis.

SECTION 9. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish and design for public display a master business license that shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters, or any other form of permission required by law to engage in business in a tourism zone.

(2) The authority shall provide information and assistance to persons desiring to locate and engage in business in a tourism zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) Responsibility for determining if requested licenses, permits, certificates, approvals, registrations, charters, or other form of permission required by law shall be issued to a qualified business, shall remain with the agency legally authorized to issue the license.

SECTION 10. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) A new business, or an existing business certified on the basis of employee expansion, shall be eligible to receive the tax advantages provided for in this section if the qualified business maintains the percentage of targeted workforce employees required by subsection (6) of Section 2 of this Act for the entire time it is certified as a qualified business in the tourism zone program.

(2) Building materials used in remodeling, rehabilitation, or new construction within a tourism zone, and advertising and promotional materials, limited to pamphlets, handbills, and fliers distributed by a qualified business within a tourism zone, shall be exempt from sales and use taxes provided for in KRS Chapter 139.

(3) New and used equipment and machinery purchased and used by a qualified business within a tourism zone shall be exempt from sales and use taxes provided for in KRS Chapter 139. Equipment and machinery may be moved in and out of a tourism zone for business purposes only. In addition, it may not become a permanent fixture at another location and may be only temporarily located elsewhere for maintenance, mechanical failure, or emergency short term replacement.

(4) A qualified business shall receive a tax credit equal to ten percent (10%) of wages paid to each employee who has been unemployed for at least ninety (90) days or who has received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with the qualified business, up to fifteen hundred dollars ($1,500) per employee. Any unused credit may be carried forward for up to five (5) years.

(5) A local government may, by an act of the local legislative body, levy an ad valorem tax rate of one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value on qualified property within a tourism zone regardless of the rates provided for in KRS Chapter 132.

SECTION 11. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of tourism zone tax exemptions on state revenues.

(2) The Revenue Cabinet shall report annually to the General Assembly no later than October 1 regarding:

(a) The cabinet's method of monitoring the tourism zone program;

(b) Information on the fiscal impact of tourism zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The Revenue Cabinet shall by promulgation of an administrative regulation pursuant to KRS Chapter 13A, amend its sales and use tax return to collect fiscal information on qualified businesses within a tourism zone for purposes of reporting to the General Assembly.

(4) The Revenue Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish a process for the collection of tax information relating to tourism zone tax exemptions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The Cabinet for Human Resources shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 13. To carry out the purposes of this Act, there is appropriated to the Kentucky Tourism Zone Authority out of the general fund in the State Treasury the sum of fifteen thousand dollars ($15,000) for the 1992-93 fiscal year and fifteen thousand dollars ($15,000) for the 1993-94 fiscal year.

Calendar

HB 7, HB 27, HB 28, HB 29, HB 234, HB 136, HB 265, HB 4, HB 2, HB 123 and **HB 179** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 3 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 128**, **HB 2**, **HB 4**, **HB 7**, **HB 27**, **HB 29**, **HB 136** and **HB 234** have been posted for passage in the Orders of the Day for January 23, 1992.

The Committee on Rules reported that the following Consent Bill has been posted for passage in the Regular Orders of the Day for January 23, 1992: **HB 3**.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 124**, **HB 28**

Representative Stumbo moved that the rules be suspended to allow floor privileges to the University of Louisville Cheerleaders. Agreed.

Representative Gray moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 29**:

HR 29, A RESOLUTION honoring the University of Louisville Cheerleading Squad.

WHEREAS, this year's University of Louisville Cheerleading Squad consisting of ten couples, competed January 4 in Dallas, Texas, against teams from across this nation; and

WHEREAS, the University of Louisville Cheerleading Squad won this contest, their fourth National Collegiate Cheerleading Championship; and

WHEREAS, the University of Louisville's cheerleading program is unmatched throughout this country; and

WHEREAS, the University of Louisville's program sets a standard which other teams strive to emulate; and

WHEREAS, the University of Louisville has won the National Collegiate Cheerleading Championship in 1985, 1986, 1989, and 1992, and has never placed lower than third in this competition since 1985;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors and commends the University of Louisville Cheerleading Squad and their coach, James Speed.

Section 2. That this honorable body also commends Sherill Zimmerman, who was coach of the University of Louisville Cheerleaders during their first three national championships, and Andre' Lyons, former Coaching Assistant to the University of Louisville Cheerleading Squad.

Section 3. That the House of Representatives also commends the University of Louisville for its strong support of their cheerleading program.

Section 4. That this body recognizes the late Harold Adams for his support that paved the way for this successful cheerleading program.

Section 5. That the Clerk of the House of Representatives transmit a copy of this Resolution to James Speed, Cheerleading Coach, University of Louisville, Louisville, Kentucky, 40292.

HR 29 was adopted by voice vote.

Representative Gray moved that a call of the roll be taken to show co-sponsors of **HR 29**. Agreed.

On the roll call the vote was yeas 94—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Bowling, Bronger, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Orders of the Day

HB 148 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 148** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 22, 1992 roll call on **HB 148** - Appendix A.)

HB 148 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 148** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 13 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 13** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 22, 1992 roll call on **HB 13** - Appendix A.)

HB 13 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 13** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 50** be passed.

Representative Sheehan moved that **HB 50** be laid on the Clerk's desk. Agreed.

HB 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 51** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 22, 1992 roll call on **HB 51** - Appendix A.)

HB 51 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 52 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 52** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See January 22, 1992 roll call on **HB 52** - Appendix A.)

HB 52 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 53 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 53** be passed.

On the roll call the vote was: Yeas 79, Nays 9. (See January 22, 1992 roll call on **HB 53** - Appendix A.)

HB 53 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 53** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 55, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 55**. Agreed.

Representative Sheehan moved that **HB 55**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See January 22, 1992 roll call on **HB 55** - Appendix A.)

HB 55, as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 55**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 44, by Representative Heleringer: A RESOLUTION adjourning in honor of Representative Anne Meagher Northup on her birthday.

Representative Heleringer moved the adoption of the following **HR 44**:

HR 44, A RESOLUTION adjourning in honor of Representative Anne Meagher Northup on her birthday.

WHEREAS, Representative Anne Meagher Northup has reached the trembling age of forty-four today; and

WHEREAS, children are the anchors that hold a mother to life, Representative Anne Meagher Northup reaches this age among the flutter of her six supportive children; and

WHEREAS, Representative Anne Meagher Northup is unfortunately forced to share the glory of her birthday with actress Linda Blair, former hockey player Mike Bossy, actor John Hurt, actor-director Bill Bixby, and actress Piper Laurie;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this esteemed body do congratulate their colleague, Representative Anne Meagher Northup, on her accomplishments and her dedication to the people's business.

Section 2. That this august body recognizes that despite the advanced age of their worthy associate, Representative Anne Meagher Northup, they expect to reap immeasurable and continued benefits from the gentlewoman.

Section 3. That the House of Representative does adjourn this day, in honor of Representative Anne Meagher Northup.

Section 4. That the Clerk of the House be directed to deliver a copy of the Resolution to Representative Anne Meagher Northup.

HR 44 was adopted by voice vote.

Representative Heleringer moved that a call of the roll be taken to show co-sponsors of **HR 44**. Agreed.

On the roll call the vote was yeas 92—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 4—Donnermeyer, Noland, Northup, Walker.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 19**, by Representative Jensen:

Amend printed copy of **HB 19** on page 1, line 11, by inserting after "bids." the following:

"***The lowest and best bid shall be selected.***".

Floor Amendment No. 3 to **HB 19**, by Representative Jensen:

Amend printed copy of **HB 19** on page 1, line 11, by inserting after "bids." the following:

"***After a bid is selected, the terms of the contract, lease, or other agreement and the name of the successful bidder shall be published according to the provisions of KRS 424.130(1)(a).***"

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 317, by Representative Morris: AN ACT relating to the Commonwealth venture fund.

HB 318, by Representatives J. Harper, Toby and Jensen: AN ACT relating to write-in voting.

HB 319, by Representative Mack: AN ACT relating to emergency medical services.

HB 320, by Representative McElroy: AN ACT relating to the Kentucky Judicial Form Retirement System and declaring an emergency.

HB 321, by Representatives Little and Deskins: AN ACT relating to Commonwealth's attorneys.

HB 322, by Representatives Kerr, Farrow, Sheehan, Bowling, Geveden, Yates, Moberly, Barrows, Bronger, L. Clark, Walker, Jensen, Overstreet, Deskins and Mason: AN ACT relating to statutory actions.

HB 323, by Representative Burch: AN ACT relating to health services.

HB 324, by Representatives Nunn, Keith, Turner and Altman: AN ACT relating to income tax.

HB 325, by Representative Kerr: AN ACT relating to cancellation of insurance.

HB 326, by Representative Deskins: AN ACT relating to the construction of school buildings.

HB 327, by Representative Little: AN ACT relating to school employees.

HR 41, by Representatives Freibert and Cyrus: A RESOLUTION relating to international cooperation and understanding and commending the American worker.

HR 42, by Representatives Farrow and Hancock: A RESOLUTION recognizing the Elkhorn Creek and the Interlocal Planning Consortium.

HR 43, by Representative Richardson: A RESOLUTION in honor of the Leadership Winchester-Clark County 1992 class.

Motions, Petitions and Communications (Continued)

Representative Gray moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **HB 148**. Agreed.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 45, by Representative Ward: A RESOLUTION honoring Terry Allen Meiners, who was storked to this planet 35 years ago today.

Representative Ward moved the adoption of the following **HR 45**:

HR 45, A RESOLUTION honoring Terry Allen Meiners, who was storked to this planet 35 years ago today.

WHEREAS, this multi-faced chaplain of the air waves has unjustly offended his alleged much younger and newsworthy co-worker; and

WHEREAS, Mr. Meiners' physical personage is closely akin to two great American symbols, the pink flamingo and the balding eagle; and

WHEREAS, Mr. Meiners' recently-purchased Cadillac Coupe De Ville retails for more ducats than the average citizen of the Commonwealth earns in several lifetimes; and

WHEREAS, said vehicle, rejected by the entire coaching staff of a great metropolitan university basketball squad, gushes petroleum at a rate greater than an uncapped Kuwaiti oil rig; and

WHEREAS, Mr. Meiners is achnowledged as a man of moderate humor and diminishing wit second only to Buzz Baxter;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, it does so in honor, memory, and trepidation of that nouveau Louisville Lip, Terry Meiners.

Section 2. That the House of Representatives joins Mr. Meiners' associates in wishing him many more years of happiness and verbosity.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Terry Meiners, WHAS Radio Station, 520 W. Chestnut, Louisville, Kentucky 40202.

HR 45 was adopted by voice vote.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representative Richardson; **HB 4**, Representatives Lyne and Richardson; **HB 14**, Representatives Gray and Yates; **HB 23**, Representative Richardson; **HB 26**, Representative Lyne; **HB 77**, Representative Richardson; **HB 99**, Representative Callahan; **HB 140**, Representative Farrow; **HB 148**, Representative Ackerson; **HB 194**, Representative Ackerson; **HB 287**, Representatives Burch, Bronger, Butler, P. Clark, Gray, Hatcher, Riggs, Ward and Yates; **HCR 26**, Representative Lyne.

Announcements

The Clerk announced the cancellation of the following meetings:

Election and Constitutional Amendments, January 23, 1992.

Natural Resources and Environmental Protection, January 23, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, January 23, 1992.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 8—Bronger, Casebier, Deskins, Heleringer, LeMaster, Mullinix, Overstreet, Richardson.

The motion to adjourn was adopted.

THURSDAY, JANUARY 23, 1992

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Robert Defoor, Harrodsburg Baptist Church, Harrodsburg.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Ridley and Deskins.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 22, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 4**, **SB 12**, **SB 13**, **SB 18**, **SB 31**, **SB 32**, **SB 34**, **SB 61**, **SB 75** and **SB 95**. (Time: 2:03 p.m.).

Introductions of Bills and Resolutions

HB 328, by Representative Lear: AN ACT relating to crimes and punishment.

HB 329, by Representative Lear: AN ACT relating to sheriffs.

HB 330, by Representative Lear: AN ACT relating to psychologists.

HB 331, by Representative Castleman: AN ACT relating to the solemnization of marriages.

HB 332, by Representatives Bentley, Little, Bowling, Noe and Mason: AN ACT relating to teacher's retirement.

HJR 46, by Representatives Blandford, Clarke, Richards, Stumbo, Rapier and Worthington: A JOINT RESOLUTION regarding the date of submission of branch budget recommendations to the General Assembly, and declaring an emergency.

HR 47, by Representative Moberly: A RESOLUTION in honor of the Leadership Madison County 1992 class.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 324**

Banking and Insurance: **HB 316, HB 325**

Business Organizations and Professions: **HB 314**

Cities: **HB 315**

Education: **HB 326, HB 327**

Elections and Constitutional Amendments: **HB 318**

Health and Welfare: **HB 319, HB 323**

Judiciary: **HB 320, HB 321, HB 322**

State Government: **HB 317**

Transportation: **SB 72**

Report of Committees

The Committee on State Government reported **HB 139**, with Committee Amendment attached thereto, **HB 147**, with Committee Amendment attached thereto, **HB 156**, with Committee Substitute attached thereto, **HB 157**, with Committee Substitute attached thereto, **HB 239** with Committee Amendments attached thereto, **HB 258** with Committee Amendment attached thereto, and **HB 263** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 139, AN ACT relating to the Kentucky Historical Society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: research and publications; society services; administration; and museums. The divisions shall be headed by a director appointed by the Executive Committee of the Kentucky Historical Society of the Education and Humanities Cabinet pursuant to KRS 171.311. The divisions shall be composed of organization entities as deemed appropriate by the secretary of the Education and Humanities Cabinet.

(2) All other previous divisions of the society shall be abolished. All personnel, records, files, equipment and funds previously assigned to previous divisions shall be transferred to the Kentucky Historical Society within the Education and Humanities Cabinet and assigned to organizational entities as deemed appropriate by the secretary of the Education and Humanities Cabinet.

The Committee Amendment No. 1 to **HB 139** is as follows:

Amend printed copy of **HB 139** on page 1, line 3, by deleting "*(1)*"; and

On line 11, by deleting everything after "*171.311.*"; and

By deleting lines 12 through 20 in their entirety; and

By adding in lieu thereof "Section 2. The General Assembly hereby confirms Executive Order 91-518 to the extent it is not otherwise confirmed by this Act."

HB 147, AN ACT relating to the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) A legislative committee may issue an appearance demand order pursuant to Section 3 of this Act.

(2) Any individual who appears before a legislative committee pursuant to an appearance demand order shall be entitled to the same privileges, immunities, and compensation as a witness in a case.

SECTION 2. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) An interim subcommittee of the Legislative Research Commission and a statutory committee of the General Assembly may issue an appearance demand order pursuant to Section 3 of this Act.

(2) Any individual who appears before an interim subcommittee of the Legislative Research Commission or a statutory committee of the General Assembly pursuant to an appearance demand order shall be entitled to the same privileges, immunities, and compensation as a witness in a case.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

A legislative committee of the General Assembly, interim subcommittee of the Legislative Research Commission, or statutory committee of the General Assembly may issue an appearance demand order. A proper appearance demand order:

(1) Requires an individual who has participated, directly or indirectly, in the awarding or performance of a state contract to appear before a legislative committee of the General Assembly, interim subcommittee of the Legislative Research Commission, or statutory committee of the General Assembly at a certain date, time, and place to discuss the awarding or performance of the contract;

(2) States valid reasons why the committee's jurisdiction includes oversight of the awarding or performance of the contract; and

(3) Is signed by a majority of the committee members.

Section 4. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.

(3) Any employee of the Division of Purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including but not limited to personal service contracts, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year, nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(4) ***Any individual named in a proper appearance demand order, issued pursuant to Section 3 of this Act, who willfully fails or refuses to comply with the terms of that order shall be guilty of a Class B misdemeanor.***

(5) (a) Any individual named in a proper appearance demand order, issued pursuant to Section 3 of this Act, who willfully fails or refuses to comply with the terms of that order shall be enjoined for two (2) years from participating, directly or indirectly, in the awarding or performance of state contracts.

(b) If an individual named in a proper appearance demand order, issued pursuant to Section 3 of this Act, willfully fails or refuses to comply with the terms of that order, and if the individual was acting on behalf of a nongovernmental party when he participated, directly or indirectly, in the awarding or performance of the state contract, that party shall be enjoined for two (2) years from participating, directly or indirectly, in the awarding or performance of state contracts.

(c) The Attorney General shall be authorized to seek the injunctions provided for in paragraphs (a) and (b) of this subsection. He shall do so in Franklin Circuit Court at the request of a majority of the members of the committee that issued the proper appearance demand order.

(6) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including but not limited to personal service contracts, to any employee of the Division of Purchases or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

The Committee Amendment No. 1 to **HB 147** is as follows:

Amend printed copy of **HB 147** on page 2, following line 13, by inserting the following:

"***(2) May require an individual to produce any and all paper, records, and documents relating to the awarding or performance of a state contract under review;***"; and

On page 2, line 14, by deleting "*(2)*" and inserting "*(3)*" in lieu thereof; and

On page 2, line 17, by deleting “***(3)***” and inserting “***(4)***” in lieu thereof.

HB 156, AN ACT relating to state leases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to insure that state agencies are acquiring their real needs at the lowest possible cost.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general regulations prescribed by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all property (including any interest in real property) of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for such requirements of that cabinet.

(5) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(6) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(7) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure.

(9) ***The state shall not employ a person unless prior to employment the person in writing notifies the Attorney General and the Governor of any current leases awarded to the person pursuant to this code or KRS 56.800 to 56.823.***

(10) (a) While serving as an official identified in KRS 61.786, a member of the Kentucky General Assembly, a member of the Kentucky Supreme Court, or a member of the Kentucky Court of Appeals, a person may lease property to the state pursuant to this code or KRS 56.800 to 56.823.

(b) However, except when a lease is modified pursuant to KRS 56.813:

1. The property let shall be limited to that which the person had under lease with the state when be began the service specified in paragraph (a) of this subsection; and

2. The person shall not receive better terms and conditions in his state leases than those in effect when he began his specified service.

(11) Subject to the provisions of this code ***or KRS 56.800 to 56.823***, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, ***the secretary of the Finance and Administration Cabinet shall forward*** the request and finding ***to the Secretary of State. The Secretary of State shall record and keep these documents*** [~~shall be recorded and kept by the Secretary of State~~] along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(12) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(13)[~~(10)~~] For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(14)[~~(11)~~] The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Governor's Office for Coal and Energy Policy shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and must issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For such analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet, or his designee, may determine protests of actual or prospective lease proposers in connection with the solicitation or selection for award of a lease.

(2) Any actual or prospective lease proposer who is aggrieved in connection with the solicitation or selection for award of a lease may file a protest with the secretary of the Finance and Administration Cabinet. A protest shall be filed promptly and in any event within two (2) calendar weeks after the aggrieved person knows, or should have known, the facts giving rise to the protest. All protests shall be in writing.

(3) The secretary of the Finance and Administration Cabinet, or his designee, shall promptly issue a decision in writing. A copy of the decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

If a protest is filed in time under subsection (2) of Section 2 of this Act, the Commonwealth shall not proceed further with the solicitation or award involved, until the secretary of the Finance and Administration Cabinet, or his designee, makes a written and adequately supported determination that continuation of the procurement is necessary to protect substantial interests of the Commonwealth.

Section 4. KRS 56.803 is amended to read as follows:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 58.823 and KRS 43.050, 48.111, and 48.190.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed one hundred thousand dollars ($100,000), the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person ***who is not a department employee concerning*** [~~with an interest in~~] the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.

(14) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

Section 5. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) ***(a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.***

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost. [~~The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, if the improvements and rent increase have the prior approval of the cabinet secretary. The rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.~~

~~(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in the property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.~~]

(3)[~~(4)~~] Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4)[~~(5)~~] The Division of Real Properties, within the Department for Facilities Management, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 6. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803 for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by KRS 56.803(17);

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(4) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) (a) Any built-to-suit lease awarded pursuant to KRS 56.816 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(6) Whenever any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

The Committee Substitute to **HB 156** is as follows:

HB 156, AN ACT relating to state leases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to insure that state agencies are acquiring their real needs at the lowest possible cost.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures, and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general regulations prescribed by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all property (including any interest in real property) of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for such requirements of that cabinet.

(5) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(6) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(7) Nothing in this section shall deprive the Finance and Administration Cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure.

(9) ***All state job applications shall provide space for an applicant to disclose whether he does or does not have an interest in a state lease awarded pursuant to this code or KRS 56.800 to 56.823. If the applicant indicates he does have an interest, the Department of Personnel shall notify both the Governor and the Attorney General prior to the hiring of the applicant. If an applicant intentionally fails to disclose any interest in a state lease or leases, it shall be grounds for dismissal.***

(10) (a) While serving as an official identified in KRS 61.786, a member of the Kentucky General Assembly, a member of the Kentucky Supreme Court, or a member of the Kentucky Court of Appeals, a person may lease property to the state pursuant to this code or KRS 56.800 to 56.823.

(b) However, except when a lease is modified pursuant to KRS 56.813:

1. The property let shall be limited to that which the person had under lease with the state when be began the service specified in paragraph (a) of this subsection; and

2. The person shall not receive better terms and conditions in his state leases than those in effect when he began his specified service.

(11) Subject to the provisions of this code ***or KRS 56.800 to 56.823***, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or through any other person influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, ***the secretary of the Finance and Administration Cabinet shall forward*** the request and finding ***to the Secretary of State. The Secretary of State shall record and keep these documents*** [~~shall be recorded and kept by the Secretary of State~~] along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(12) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(13)[~~(10)~~] For capital construction projects, subject to the provisions of this code, the bidding may be on whichever of the following methods, in the judgment of the secretary of the Finance and Administration Cabinet, offers the lowest real cost to the taxpayer:

(a) A total design-bid basis;

(b) A package system commonly referred to as "turnkey";

(c) Phase bidding commonly referred to as "fast track"; or

(d) Construction management.

Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(14)[~~(11)~~] The Finance and Administration Cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in this code, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Governor's Office for Coal and Energy Policy shall conduct a thorough economic feasibility analysis on any major energy using component of at least three million (3,000,000) BTU's per hour heat input and must issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For such analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet, or his designee, may determine protests of actual or prospective lease proposers in connection with the solicitation or selection for award of a lease.

(2) Any actual or prospective lease proposer who is aggrieved in connection with the solicitation or selection for award of a lease may file a protest with the secretary of the Finance and Administration Cabinet. A protest shall be filed promptly and in any event within two (2) calendar weeks after the aggrieved person knows, or should have known, the facts giving rise to the protest. All protests shall be in writing.

(3) The secretary of the Finance and Administration Cabinet, or his designee, shall promptly issue a decision in writing. A copy of the decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

If a protest is filed in time under subsection (2) of Section 2 of this Act, the Commonwealth shall not proceed further with the solicitation or award involved, until the secretary of the Finance and Administration Cabinet, or his designee, makes a written and adequately supported determination that continuation of the procurement is necessary to protect substantial interests of the Commonwealth.

Section 4. KRS 56.803 is amended to read as follows:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall

submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 58.823 and KRS 43.050, 48.111, and 48.190.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed one hundred thousand dollars ($100,000), the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person ***who is not a department employee concerning*** [~~with an interest in~~] the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record ***and shall be subject to the provisions of KRS 61.870 to 61.884.***

(14) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

Section 5. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) ***(a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.***

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost. [~~The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, if the improvements and rent increase have the prior approval of the cabinet secretary. The rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.~~

~~(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in the property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.~~]

(3)[~~(4)~~] Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4)[~~(5)~~] The Division of Real Properties, within the Department for Facilities Management, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 6. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803 for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by KRS 56.803(17);

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(4) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) (a) Any built-to-suit lease awarded pursuant to KRS 56.816 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(6) Whenever any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

Section 7. KRS 56.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 56.250 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) Any person who commits a moving traffic violation of any regulation of the Finance and Administration Cabinet governing the operation and use of motor vehicles on the grounds of a state-owned building, shall upon conviction be fined not less than two dollars ($2) nor more than fifteen dollars ($15); Provided, however, that if such person is found guilty of violating any provision of such regulation for which the mandatory or discretionary revocation of drivers' licenses is prescribed by KRS 186.560 and KRS 186.570, then the penalty for such violation shall be the same as that prescribed by the law applicable to such offense.

(3) Any person who violates the provisions of Section 4(13)(b) of this Act shall be guilty of a Class B misdemeanor.

HB 157, AN ACT relating to the Commonwealth of Kentucky's procurement of architectural and engineering services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Architect" means an architect licensed to practice under KRS Chapter 323;

(2) "Engineer" means an engineer licensed to practice under KRS Chapter 322;

(3) "Procuring agency" means either the Finance and Administration Cabinet or the Transportation Cabinet;

(4) "Project" means an undertaking to construct, erect, remodel, or repair a structure on behalf of the Commonwealth of Kentucky;

(5) "User agency" means the state agency that will occupy or otherwise be the primary beneficiary of a completed Finance and Administration Cabinet project; and

(6) "User division" means the division of the Transportation Cabinet that requires the procuring of engineering services for a project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares it to be the policy of the Commonwealth of Kentucky to announce publicly all requirements for architectural and engineering services and to award a contract for architectural or engineering services to the best firm, qualified to perform the work on a project, on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) (a) An architectural services selection committee and an engineering services selection committee are hereby created in the Finance and Administration Cabinet.

(b) An engineering services selection committee is hereby created in the Transportation Cabinet.

(2) (a) The architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of the cabinet procuring architectural services.

(b) The engineering services selection committee created in the Finance and Administration Cabinet shall participate in every instance of the cabinet procuring engineering services.

(c) The engineering services selection committee created in the Transportation Cabinet shall participate in every instance of the cabinet procuring engineering services.

(3) The architectural services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members:

(a) Two (2) architects who are merit employees of the Finance and Administration Cabinet appointed by the secretary of the cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Architects; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(4) The engineering services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers who are merit employees of the Finance and Administration Cabinet appointed by the secretary of the cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Professional Engineers; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(5) The engineering services selection committee created in the Transportation Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers who are merit employees of the Transportation Cabinet appointed by the secretary of the cabinet;

(b) Two (2) engineers who are merit employees of the user division appointed by the head of that division;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Professional Engineers; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(6) (a) Except for a selection committee member appointed by the head of a user agency or user division, a selection committee member shall serve an initial one (1) year term and may be reappointed to succeed himself for another one (1) year term. He shall serve until his successor is appointed and qualified. At the conclusion of his service on a selection committee, he shall be prohibited from serving on a selection committee until a year has elapsed. A successor or a replacement, in the case of a vacancy during an unexpired term, shall be appointed in the same manner as the initial appointee.

(b) A selection committee member appointed by the head of a user agency or user division shall serve on a project-by-project basis. In the case of a vacancy during an unexpired term, a replacement shall be appointed in the same manner as the initial appointee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) For administrative purposes, a selection committee shall be attached to the procuring agency whose secretary appointed members to the committee.

(2) A procuring agency shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky in which to conduct its business;

(b) An executive secretary and any other staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Selection committee members who are not state employees shall receive a salary of fifty dollars ($50) per day for those days authorized by the selection committee for selection committee activities.

(2) Selection committee members who are state employees shall not receive a salary for their time spent on selection committee activities, and the state government salaries of these committee members shall not be reduced due to time spent away from other state government activities.

(3) All selection committee members shall be reimbursed for costs necessarily incurred in carrying out their duties. All reimbursements shall be authorized by the selection committee.

(4) The procuring agency shall pay all costs generated under this section by a selection committee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A firm interested in providing architectural or engineering services to the Commonwealth shall, each Commonwealth fiscal year, submit to the relevant procuring agency a statement of general qualifications on a form devised by that agency. A firm may submit a completed form at the same time or at any time before the firm responds to a request for proposals. A firm which fails to submit a completed form in a timely fashion shall be barred from the procurement process. A statement of general qualifications shall remain in effect until the end of the fiscal year during which the statement is submitted.

(2) The procuring agency shall consult with the user agency before arriving at a request for proposals. Through advertisement, and any other available means, the procuring agency shall provide notice of a request for proposals and notice of the materials that the procuring agency will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the project evaluation sheet to be used by the relevant selection committee. The advertisement shall also set a deadline for filing responses to a request for proposals with the procuring agency.

(3) A firm shall respond to a request for proposals by submitting, before the deadline, a one (1) page letter of interest as well as a completed form, devised by the procuring agency, which states the firm's experience and its qualifications for the project as described in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.

(4) The employees of a procuring agency and the members of the selection committee shall keep all responses to a request for proposals confidential until the procuring agency has awarded a contract.

(5) The secretary of the procuring agency shall designate a procuring agency employee to determine which firms have filed, in a timely fashion, statements of general qualifications and responses to a request for proposals. He shall create a list of the firms which have done so and certify the list.

(6) The procuring agency shall organize the selection committee's first meeting. At that meeting, the selection committee shall:

(a) Elect from among the voting members of the committee a chairman and a vice chairman who shall hold their positions for the duration of the selection committee's participation in the project;

(b) Be provided with:

1. The certified list of firms qualified to perform the anticipated work on the project;

2. The current general qualification statements of these firms;

3. The firms' responses to the request for proposals;

4. The request for proposals;

5. The advertised notice of request for proposals; and

6. The project evaluation sheets; and

(c) Discuss the future conduct of its affairs.

(7) (a) When the Department of Transportation procures engineering services or when the Finance and Administration Cabinet procures architectural or engineering services for an estimated fee of less than fifty thousand dollars ($50,000), this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select the three (3) most qualified firms and rank them in order of preference, based upon the criteria established in the request for proposals; and

3. Notify the procuring agency of the ranking.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists;

2. Their ranking; and

3. The rest of the procedure that will be followed in the awarding of the contract.

(d) The procuring agency shall than begin negotiations with the top ranked firm pursuant to subsection (9) of this section.

(8) (a) When the Finance and Administration Cabinet is procuring architectural or engineering services for an estimated fee of fifty thousand dollars ($50,000) or more, this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select, but not rank, the three (3) most qualified firms, based upon the criteria established in the request for proposals; and

3. Notify the procuring agency of the three (3) finalists.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(d) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the procuring agency has awarded a contract.

(e) The selection committee shall meet in executive session to:

1. Rank the three (3) finalists; and

2. Forward the ranking to the procuring agency.

(f) The procuring agency shall send a letter to each finalist, informing the finalist of:

1. His ranking; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(g) The procuring agency shall then begin negotiations with the top ranked firm pursuant to subsection (9) of this section.

(9) The secretary of the procuring agency shall designate a procuring agency employee as the procuring officer in charge of negotiating a contract with the top ranked firm, as determined by the selection committee, at compensation which the procuring officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the employee shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the procuring officer be unable to negotiate a satisfactory contract with the top ranked firm, at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The procuring officer shall then undertake negotiations with the second ranked firm. Failing accord with the second ranked firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third ranked firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the selection committee shall select additional firms in order of their competence and qualification, and the purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(10) Once a procuring officer has negotiated a contract, the procuring agency shall send a letter to the other finalists, informing them of:

(a) Which firm has successfully negotiated a contract; and

(b) The rest of the procedure that will be followed in the awarding of the contract.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) After the procuring officer has negotiated an architectural or engineering services contract, but before the contract is submitted to the Personal Service Contract Review Subcommittee, the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each member of the selection committee shall sign separate certificates, devised by the procuring agency, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of a violation of KRS Chapter 45A which has arisen in the procurement process.

(3) The procuring agency shall file with the Personal Service Contract Review Subcommittee:

(a) The certificates; and

(b) The selection committee's ranking of firms.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A selection committee shall not consider a firm for an architectural or engineering services contract when a member of the committee, his spouse, either of his parents, or any of his children is employed by that firm, or has a financial interest in that firm.

(2) For a period of one (1) year after a person ends his service on a selection committee, the Commonwealth shall not consider a firm for an architectural or engineering services contract when the person, his spouse, either of his parents, or any of his children is employed by that firm or has a financial interest in that firm.

Section 9. KRS 45A.195 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall promulgate by regulation the form of the bonds required by KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The purchasing agency shall furnish a certified copy of a bond to any person who requests ***a copy*** [~~such~~] and pays a reasonable fee for ***the*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 10. KRS 45A.440 is amended to read as follows:

(1) The local public agency may promulgate by regulation the form of the bonds required by KRS 45A.430 and 45A.435, or it may adopt the form established by the state under KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The local public agency shall furnish a certified copy of a bond to any person who requests such and pays the reasonable fee for ***that*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 11. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after three (3) copies of the personal service contract are filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for ***the*** [~~such~~] service; [~~and~~]

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform ***the*** [~~such~~] service***; and***

(c) In the case of an architectural or engineering services contract, the documents identified in subsection (3) of Section 7 of this Act.

(3) Adequate notice of the need for ***the*** [~~such~~] services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of ***the*** [~~such~~] officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of ***the*** [~~such~~] officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with ***the*** [~~such~~] other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of such officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing three (3) copies of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the emergency.

(9) If an emergency exists and work is authorized to begin immediately, three (3) copies of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the three (3) copies of the personal service contract.

Section 12. The following KRS sections are repealed:

45A.175 Definitions of terms used in KRS 45A.170 to 45A.205.

45A.205 Policy as to architectural and engineering services.

The Committee Substitute to **HB 157** is as follows:

HB 157, AN ACT relating to the Commonwealth of Kentucky's procurement of architectural and engineering services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Architect" means an architect licensed to practice under KRS Chapter 323 or a landscape architect licensed to practice under KRS Chapter 323A;

(2) "Engineer" means an engineer licensed to practice under KRS Chapter 322;

(3) "Procuring agency" means either the Finance and Administration Cabinet or the Transportation Cabinet;

(4) "Project" means an undertaking to construct, erect, remodel, or repair a structure on behalf of the Commonwealth of Kentucky;

(5) "User agency" means the state agency that will occupy or otherwise be the primary beneficiary of a completed Finance and Administration Cabinet project; and

(6) "User division" means the division of the Transportation Cabinet that requires the procuring of engineering services for a project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares it to be the policy of the Commonwealth of Kentucky to announce publicly all requirements for architectural and engineering services and to award a contract for architectural or engineering services to the best firm, qualified to perform the work on a project, on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) (a) An architectural services selection committee and an engineering services selection committee are hereby created in the Finance and Administration Cabinet.

(b) An engineering services selection committee is hereby created in the Transportation Cabinet.

(2) (a) The architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of the cabinet procuring architectural services.

(b) The engineering services selection committee created in the Finance and Administration Cabinet shall participate in every instance of the cabinet procuring engineering services.

(c) The engineering services selection committee created in the Transportation Cabinet shall participate in every instance of the cabinet procuring engineering services.

(3) The architectural services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members:

(a) Two (2) architects who are merit employees of the Finance and Administration Cabinet appointed by the secretary of the cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Architects; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(4) The engineering services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers who are merit employees of the Finance and Administration Cabinet appointed by the secretary of the cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Professional Engineers; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(5) The engineering services selection committee created in the Transportation Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers who are merit employees of the Transportation Cabinet appointed by the secretary of the cabinet;

(b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user division;

(c) An individual appointed by the Governor from a list of three (3) individuals nominated by the Kentucky Society of Professional Engineers; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(6) (a) All selection committee members shall have experience which qualifies them to serve on the committee.

(b) If any user agency or user division listed in subsection (3), (4), or (5) of this section does not operate under a merit system, the head of the agency or division shall appoint two (2) agency or division employees who have experience which qualifies them to serve on the committee.

(c) Except for a selection committee member appointed by the head of a user agency or user division, a selection committee member shall serve an initial one (1) year term and may be reappointed to succeed himself for another one (1) year term. He shall serve until his successor is appointed and qualified. At the conclusion of his service on a selection committee, he shall be prohibited from serving on a selection committee until a year has elapsed. A successor or a replacement, in the case of any vacancy on a selection committee, shall be appointed in the same manner as the initial appointee.

(d) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) For administrative purposes, a selection committee shall be attached to the procuring agency whose secretary appointed members to the committee.

(2) A procuring agency shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky in which to conduct its business;

(b) An executive secretary and any other staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Selection committee members who are not state employees shall receive a salary of one hundred dollars ($100) per day for those days authorized by the selection committee for selection committee activities.

(2) Selection committee members who are state employees shall not receive a salary for their time spent on selection committee activities, and the state government salaries of these committee members shall not be reduced due to time spent away from other state government activities.

(3) All selection committee members shall be reimbursed for costs necessarily incurred in carrying out their duties. All reimbursements shall be authorized by the selection committee.

(4) The procuring agency shall pay all costs generated under this section by a selection committee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A firm interested in providing architectural or engineering services to the Commonwealth shall, each Commonwealth fiscal year, submit to the relevant procuring agency a statement of general qualifications on a form devised by that agency. A firm may submit a completed form at the same time or at any time before the firm responds to a request for proposals. A firm which fails to submit a completed form in a timely fashion shall be barred from the procurement process. A statement of general qualifications shall remain in effect until the end of the fiscal year during which the statement is submitted.

(2) The procuring agency shall consult with the user agency or user division before arriving at a request for proposals. Through advertisement, and any other available means, the procuring agency shall provide notice of a request for proposals and notice of the materials that the procuring agency will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the project evaluation sheet to be used by the relevant selection committee. The advertisement shall also set a deadline for filing responses to a request for proposals with the procuring agency.

(3) A firm shall respond to a request for proposals by submitting, before the deadline, a one (1) page letter of interest as well as a completed form, devised by the procuring agency, which states the firm's experience and its qualifications for the project as described in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.

(4) The employees of a procuring agency and the members of the selection committee shall keep all responses to a request for proposals confidential until the procuring agency has awarded a contract.

(5) The secretary of the procuring agency shall designate a procuring agency employee to determine which firms have filed, in a timely fashion, statements of general qualifications and responses to a request for proposals. He shall create a list of the firms which have done so and certify the list.

(6) The procuring agency shall organize the selection committee's first meeting. At that meeting, the selection committee shall:

(a) Elect from among the voting members of the committee a chairman and a vice chairman who shall hold their positions for the duration of the selection committee's participation in the project;

(b) Be provided with:

1. The certified list created pursuant to subsection (5) of this section;

2. The current general qualification statements of these firms;

3. The firms' responses to the request for proposals;

4. The request for proposals;

5. The advertised notice of request for proposals; and

6. The project evaluation sheets; and

(c) Discuss the future conduct of its affairs.

(7) (a) When the Department of Transportation procures engineering services or when the Finance and Administration Cabinet procures architectural or engineering services for an estimated fee of less than fifty thousand dollars ($50,000), this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select the three (3) most qualified firms and rank them in order of preference, based upon the criteria established in the request for proposals; and

3. Notify the procuring agency of the ranking.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists;

2. Their ranking; and

3. The rest of the procedure that will be followed in the awarding of the contract.

(d) The procuring agency shall then begin negotiations with the top ranked firm pursuant to subsection (9) of this section.

(8) (a) When the Finance and Administration Cabinet is procuring architectural or engineering services for an estimated fee of fifty thousand dollars ($50,000) or more, this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select, but not rank, the three (3) most qualified firms, based upon the criteria established in the request for proposals; and

3. Notify the procuring agency of the three (3) finalists.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(d) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the procuring agency has awarded a contract.

(e) The selection committee shall meet in executive session to:

1. Rank the three (3) finalists; and

2. Forward the ranking to the procuring agency.

(f) The procuring agency shall send a letter to each finalist, informing the finalist of:

1. His ranking; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(g) The procuring agency shall then begin negotiations with the top ranked firm pursuant to subsection (9) of this section.

(9) The secretary of the procuring agency shall designate a procuring agency employee as the procuring officer in charge of negotiating a contract with the top ranked firm, as determined by the selection committee, at compensation which the procuring officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the employee shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the procuring officer be unable to negotiate a satisfactory contract with the top ranked firm, at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The procuring officer shall then undertake negotiations with the second ranked firm. Failing accord with the second ranked firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third ranked firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the selection committee shall select additional firms in order of their competence and qualification, and the purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(10) Once a procuring officer has negotiated a contract, the procuring agency shall send a letter to the other finalists, informing them of:

(a) Which firm has successfully negotiated a contract; and

(b) The rest of the procedure that will be followed in the awarding of the contract.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) After the procuring officer has negotiated an architectural or engineering services contract, but before the contract is submitted to the Personal Service Contract Review Subcommittee, the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each member of the selection committee shall sign separate certificates, devised by the procuring agency, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of a violation of KRS Chapter 45A which has arisen in the procurement process. The representative of the Auditor of Public Accounts shall also sign a certificate stating that the applicable provisions of subsections (4), (6), (7) and (8) of Section 6 of this Act were met.

(3) The procuring agency shall file with the Personal Service Contract Review Subcommittee:

(a) The certificates; and

(b) The selection committee's ranking of firms.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A selection committee shall not consider a firm for an architectural or engineering services contract when a member of the committee, his spouse, either of his parents, or any of his children is employed by that firm, or has a financial interest in that firm.

(2) For a period of one (1) year after a person ends his service on a selection committee, the Commonwealth shall not consider a firm for an architectural or engineering services contract when the person, his spouse, either of his parents, or any of his children is employed by that firm or has a financial interest in that firm.

Section 9. KRS 45A.195 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall promulgate by regulation the form of the bonds required by KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The purchasing agency shall furnish a certified copy of a bond to any person who requests ***a copy*** [~~such~~] and pays a reasonable fee for ***the*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 10. KRS 45A.440 is amended to read as follows:

(1) The local public agency may promulgate by regulation the form of the bonds required by KRS 45A.430 and 45A.435, or it may adopt the form established by the state under KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The local public agency shall furnish a certified copy of a bond to any person who requests such and pays the reasonable fee for ***that*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 11. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after three (3) copies of the personal service contract are filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for ***the*** [~~such~~] service; [~~and~~]

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform ***the*** [~~such~~] service***; and***

(c) In the case of an architectural or engineering services contract, the documents identified in subsection (3) of Section 7 of this Act.

(3) Adequate notice of the need for ***the*** [~~such~~] services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of ***the*** [~~such~~] officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of ***the*** [~~such~~] officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with ***the*** [~~such~~] other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of such officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing three (3) copies of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the emergency.

(9) If an emergency exists and work is authorized to begin immediately, three (3) copies of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the three (3) copies of the personal service contract.

Section 12. The following KRS sections are repealed:

45A.175 Definitions of terms used in KRS 45A.170 to 45A.205.

45A.205 Policy as to architectural and engineering services.

HB 239, AN ACT relating to the lease of property for state use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

If the secretary of the Finance and Administration Cabinet determines that an agency is entitled to additional space and that built-to-suit on private property or built-to-suit on state-owned land is the most economically advantageous method for acquiring that space, the secretary shall set forth his determination in a written finding which shall be approved by the Governor.

SECTION 2. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) A built-to-suit selection committee is hereby created in the Finance and Administration Cabinet.

(2) The selection committee shall participate in every instance of the cabinet acquiring space through built-to-suit.

(3) The initial selection committee shall consist of the following eight (8) members:

(a) One (1) merit employee of the Finance and Administration Cabinet, appointed by the secretary of the cabinet, shall serve a one (1) year term.

(b) One (1) merit employee of the Finance and Administration Cabinet, appointed by the secretary of the cabinet, shall serve a two (2) year term.

(c) One (1) merit employee of the Finance and Administration Cabinet, appointed by the secretary of the cabinet, shall serve a three (3) year term.

(d) Except as provided for in subsection (4) of this section, two (2) merit employees of the agency seeking the space, appointed by the head of that agency, shall serve for the duration of the built-to-suit process involving their agency.

(e) One (1) merit employee of the Auditor of Public Accounts, appointed by the Auditor, shall serve as a nonvoting member of the committee for a four (4) year term.

(f) One (1) private citizen, appointed by the secretary of the cabinet, shall serve a one (1) year term.

(g) One (1) private citizen, appointed by the secretary of the cabinet, shall serve a two (2) year term.

(4) If the agency seeking the space does not operate under a merit system, the head of the agency shall appoint two (2) agency employees to the selection committee who shall serve for the duration of the built-to-suit process involving their agency.

(5) All selection committee members shall have experience which qualifies them to serve on the committee.

(6) (a) This paragraph shall apply to selection committee members other than those appointed by the head of the agency seeking the space. After the initial terms established in subsection (3) of this section have expired, all subsequent terms shall last four (4) years, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. A selection committee member may succeed himself. He shall serve until his successor is appointed and qualified. A successor or replacement, in the case of a vacancy during an unexpired term, shall be appointed in the same manner as the initial appointee.

(b) A selection committee member appointed by the head of the agency seeking the space shall serve for the duration of the built-to-suit process involving his agency, except that a person appointed to fill a vacancy prior to the expiration of the process shall be appointed for the remainder of the process. In the case of a vacancy during an unexpired term, a replacement shall be appointed in the same manner as the initial appointee.

SECTION 3. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) For administrative purposes, the selection committee shall be attached to the Finance and Administration Cabinet.

(2) The cabinet shall provide the selection committee with:

(a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;

(b) An executive secretary and any other staff support necessary for the expeditious conduct of the selection committee's duties and responsibilities; and

(c) Office supplies.

SECTION 4. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) Selection committee members who are not state employees shall receive a salary of fifty dollars ($50) per day for those days authorized by the selection committee for selection committee activities.

(2) Selection committee members who are state employees shall not receive a salary for their time spent on selection committee activities, and the state government salaries of these committee members shall not be reduced due to time spent away from other state government activities.

(3) All selection committee members shall be reimbursed for costs necessarily incurred in carrying out their duties. All reimbursements shall be authorized by the selection committee.

(4) The Finance and Administration Cabinet shall pay all costs generated under this section by the selection committee.

SECTION 5. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) In conducting the built-to-suit process, the commissioner of the Department for Facilities Management, after consultation with the agency or agencies for whose use the space is sought, shall arrive at a request for proposals.

(2) The request for proposals shall indicate the relative importance of evaluation factors.

(3) A request for proposals may be amended at any time prior to the deadline for the submission of proposals.

(4) In soliciting the interest of firms to carry out a built-to-suit, the department shall comply with the procedures established in this subsection.

(a) The department shall place newspaper advertisements. The advertisements shall provide notice of a request for proposals and notice of the materials that the department will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the proposal evaluation sheet to be used by the selection committee. The advertisement shall also set a time and date for a written response to the advertisement.

(b) If a daily newspaper is published, and of general circulation in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought, and two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) In addition to the requirements of paragraphs (b) to (d) of this subsection, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the commissioner of the Department for Facilities Management.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify firms that advertisements have been placed.

(5) To respond to a newspaper advertisement, a firm, or its representative, shall respond on or before the time and date designated in the advertisement. Its response shall take the form of a one (1) page letter of interest which shall provide its name and address.

(6) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department. A firm which fails to meet the deadline shall be barred from the procurement process.

(7) The department shall mail to all firms that responded in time to the advertisement a request for proposals.

(8) After the request for proposals have been mailed, but before written proposals are submitted, the commissioner, and his staff, may hold any meetings, discussions, or negotiations that they deem appropriate with the firms.

(9) (a) The commissioner shall send a letter to each of the firms, inviting each firm to submit a written proposal, on a form created by the department, on or before the time and date set forth in the letter. A form shall be enclosed with each letter.

(b) A firm that does not submit a written proposal, on a form created by this department, on or before the deadline shall be barred from the procurement process.

(c) Employees of the department and the members of the selection committee shall keep the written proposals confidential until the lease is awarded.

(10) The commissioner shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the newspaper advertisement and a written proposal on a form created by the department. He shall create a list of the firms which have done so and certify the list.

(11) The department shall organize the selection committee's first meeting. At that meeting, the selection committee shall:

(a) Elect from its members a chairman and a vice chairman who shall hold their positions for the duration of the selection process;

(b) Be provided with:

1. The certified list of firms;

2. The firms' written proposals submitted in response to a request for proposals;

3. The request for proposals;

4. The advertised notice of request for proposals;

5. The proposal evaluation sheets; and

6. A letter from the commissioner informing the committee that the selection process is governed by KRS 56.800 to 56.823 and 56.990; and

(c) Discuss the future conduct of its affairs.

(12) The selection committee shall meet in executive session to:

(a) Evaluate the materials with which it has been provided;

(b) Select, but not rank, the three (3) most qualified firms, based upon the evaluation factors set forth in the request for proposals; and

(c) Notify the department of the three (3) finalists.

(13) The department shall send a letter to each firm which responded to the request for proposals, informing the firm of:

(a) The three (3) finalists; and

(b) The rest of the procedure that will be followed in the awarding of the built-to-suit lease.

(14) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview.

(15) The selection committee shall meet in executive session to:

(a) Rank the three (3) finalists based on the weighted evaluation factors in the request for proposals; and

(b) Forward the ranking to the department.

(16) (a) The commissioner shall:

1. Award the built-to-suit lease to the top ranked finalist; or

2. Request best-and-final offers.

(b) The commissioner shall request best-and-final offers only of the three (3) finalists. His written request shall include his reason for requesting best-and-final offers, and shall state a time and date by which all best-and-final offers will have to be received. A firm that does not submit a best-and-final offer by the deadline shall not be awarded the built-to-suit lease.

(c) Employees of the department and the members of the selection committee shall keep the best-and-final offers confidential until the lease is awarded.

(d) The selection committee shall meet in executive session to assess all the materials with which it was provided pursuant to subsection (11)(b) of this section, as well as the request for best-and-final offers and best-and-final offers. The committee shall rank the three (3) finalists based on the weighted evaluation factors in the request for proposals. If the committee determines that the top ranked firm's best-and-final offer is adequate, the committee shall forward that firm's name to the department. If the committee determines that the top ranked firm's best-and-final offer is inadequate, the process shall end.

(e) The commissioner shall award the built-to-suit lease to the firm chosen by the selection committee.

(17) After the best firm has been selected, the department shall send a letter to the finalists, informing them of:

(a) Which firm has been selected for the proposed lease; and

(b) The rest of the procedure that will be followed in the awarding of the lease.

SECTION 6. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) After the department has awarded the proposed built-to-suit lease to a firm, but before the lease is submitted to the Capital Projects and Bond Oversight Committee for review, the commissioner shall supply a copy of the proposed lease to each member of the selection committee.

(2) The secretary of the Finance and Administration Cabinet, commissioner of the department, and each voting member of the selection committee shall sign separate certificates, devised by the department, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a willful violation of KRS 56.800 to 56.823 which has arisen in the procurement process.

(3) The representative of the Auditor of Public Accounts shall prepare and file a report with the Capital Projects and Bond Oversight Committee certifying that the applicable procedural provisions of KRS 56.800 to 56.823 were met.

SECTION 7. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) A selection committee shall not consider a firm for a built-to-suit lease when a member of the committee, his spouse, either of his parents, or any of his children is employed by that firm, or has a financial interest in that firm.

(2) For a period of one (1) year after a person ends his service on a selection committee, the Commonwealth shall not consider a firm for a built-to-suit lease when the person, his spouse, either of his parents, or any of his children is employed by that firm or has a financial interest in that firm.

SECTION 8. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

When a built-to-suit lease is awarded to a firm that owns the land upon which the building shall be built, the Commonwealth shall be granted an option to purchase the leased buildings, land, and any appurtenant facilities. The option price to be paid shall be no greater than a sum equal to the remaining balance of any mortgage lien encumbering the property and securing the repayment of moneys advanced to the owner for the original construction of the building, plus an amount not to exceed ten percent (10%) of the mortgage balance.

Section 9. KRS 56.820 is amended to read as follows:

(1) ***This section shall apply when the built-to-suit process involves the construction of a building on state-owned land*** [~~Whenever it is determined by the department that office or other buildings are needed for use by the Commonwealth and its agencies, and it is determined by the secretary of the Finance and Administration Cabinet, as chief financial adviser to the Governor and the General Assembly, that it is not economically feasible for such buildings to be constructed or acquired by any other financing method authorized by this chapter, such buildings may be constructed on state-owned land under built-to-suit lease agreements as authorized by this section. All such determinations shall be set forth in a written finding by the secretary and approved by the Governor by executive order filed in the Office of the Secretary of State~~].

(2) [~~All proposals for built-to-suit leases solicited under this section shall be advertised in the manner required by KRS 56.816. The advertisement shall state that the built-to-suit lease will be entered into pursuant to the provisions of this section and contain a general description of the property.~~

~~(3)~~] Upon the execution of a lease awarded under this section, the Commonwealth shall convey to the individual or firm to whom such lease has been awarded, in fee simple with covenant of general warranty of title, the real estate upon which the building is to be constructed under this lease. The lease shall provide for an initial lease term commencing on the date the building is accepted for occupancy by the Commonwealth, but not later than thirty (30) days after the owner's architect has certified that construction of the building has been completed, and ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with an option in the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of the original term of the lease and for two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed upon by the parties at a rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building and appurtenances. The rent shall be paid at such times as the parties to the lease agreed upon. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended, and all rents and payments provided for in the lease have been made, the lessor shall convey the premises to the lessee in fee simple with covenant of general warranty of title. The lease may provide that the lessee shall, as additional rent for the leased premises, pay all taxes assessed against the leased premises, and the cost of insuring the building erected thereon against loss or damage by fire and windstorm in such sum as may be agreed by the parties thereto.

SECTION 10. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

All built-to-suit lease agreements shall be executed for the Commonwealth by the secretary of the Finance and Administration Cabinet and approved for form and legality by the Attorney General or an assistant Attorney General before they shall be binding against the Commonwealth. All the leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

A building constructed and leased to the Commonwealth under a built-to-suit lease agreement shall be constructed:

(a) In accordance with all applicable state and national safety, building, and construction code requirements; and

(b) To last, at a minimum, for a period of thirty (30) years.

SECTION 12. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

Any agreement or collusion among lease proposers or prospective lease proposers which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to propose a lease with certain terms, or to refrain from proposing a lease with certain terms or otherwise, is prohibited.

Section 13. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803 for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee ***after a proposed lease is arrived at but before*** [~~within thirty (30) days after~~] execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by KRS 56.803(17);

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee ***after a proposed lease is arrived at but before*** [~~within thirty (30) days after~~] execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(4) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) [~~(a)~~] Any built-to-suit lease awarded pursuant to ***Section 5 of this Act*** [~~KRS 56.816~~] shall be reported to the Capital Projects and Bond Oversight Committee ***after a proposed lease is arrived at but before*** [~~within thirty (30) days after~~] execution. [~~The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816.~~] The report shall [~~further~~] state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section. ***The report shall also include:***

(a) The written finding and Governor's approval required by Section 1 of this Act;

(b) The selection committee's ranking of firms required by subsection (15)(a) of Section 5 of this Act;

(c) The written reason for requesting best-and-final offers, if best-and-final offers are requested, made pursuant to subsection (16)(b) of Section 5 of this Act;

(d) The selection committee's selection of the best best-and-final offer, if best-and-final offers are requested, made pursuant to subsection (16)(d)2. of Section 5 of this Act;

(e) The certificates signed pursuant to subsection (2) of Section 6 of this Act; and

(f) The report prepared by the employee of the Auditor of Public Accounts pursuant to subsection (3) of Section 6 of this Act.

[~~(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.~~]

(6) *If*[~~Whenever~~] any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813(5); and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813(5); and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

Section 14. KRS 56.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 56.250 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) Any person who commits a moving traffic violation of any regulation of the Finance and Administration Cabinet governing the operation and use of motor vehicles on the grounds of a state-owned building, shall upon conviction be fined not less than two dollars ($2) nor more than fifteen dollars ($15); Provided, however, that if such person is found guilty of violating any provision of such regulation for which the mandatory or discretionary revocation of drivers' licenses is prescribed by KRS 186.560 and KRS 186.570, then the penalty for such violation shall be the same as that prescribed by the law applicable to such offense.

(3) (a) Any individual who willfully violates any of the provisions of Section 12 of this Act shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or by imprisonment in the penitentiary for not less than one (1) year nor more than five (5) years, or both.

(b) Any firm, corporation, or association which willfully violates any of the provisions of Section 12 of this Act shall be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(4) Any individual who willfully violates a provision of KRS 56.800 to 56.823, other than one (1) found in Section 12 of this Act, shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the penitentiary for not more than one (1) year, or both.

(5) Any employee or official of the Commonwealth of Kentucky who shall willfully take, receive, or offer to take or receive, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a state lease pursuant to KRS 56.800 to 56.823, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000), or imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(6) (a) Any individual willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease pursuant to KRS 56.800 to 56.823, to any employee or official of the Commonwealth of Kentucky, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(b) Any firm, corporation, or association willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease, to any employee or official of the Commonwealth of Kentucky, shall be punished by a fine of not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

Section 15. The following KRS sections are repealed:

56.816 Built-to-suit leases — Advertisement Specifications.

56.818 Term of built-to-suit leases — Option to purchase by Commonwealth — Recording.

The Committee Amendment No. 1 to **HB 239** is as follows:

Amend printed copy of **HB 239** on page 10, line 23 after the second "***the***" add "***best-and-final offers of the***"

On page 10, line 26 delete "***firm's***"

On page 11, line 1 after "***forward***" delete "***that firm's name***" and insert in lieu thereof "***the name of the firm that submitted the top ranked best-and-final offer***"

On page 13, line 3 delete "***be no greater than a sum***"

On page 13, delete lines 4 through 8 in their entirety and insert in lieu thereof "***not exceed its fair market value as of the time the option is exercised as determined by a competent and qualified real estate appraiser, selected by mutual agreement of the parties, employing the reproduction cost new or other accepted appraisal techniques; provided, however, that in no event shall the option price be less than a sum equal to the remaining balance of any mortgage lien encumbering the property and securing the repayment of moneys advanced to the owner for the original construction of the building, plus an amount not to exceed ten percent (10%) of such mortgage balance.***"

On page 23, at the end of line 14 add "***The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.***"

On page 24, at the end of line 20 add "***The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.***".

The Committee Amendment No. 2 to **HB 239** is as follows:

Amend printed copy of **HB 239** on page 4, line 11, following the word "***of***" by deleting "***fifty dollars ($50)***" and inserting "***one hundred dollars ($100)***" in lieu thereof.

HB 258, AN ACT relating to state capital construction and equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.760 to ***45.810*** [~~45.800~~]:

(a) "Committee" means the Capital Projects and Bond Oversight Committee.

(b) "Capital projects" includes:

1. The construction, reconstruction, acquisition, and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition of land [~~for the construction or reconstruction of a building or for the installation of utility services~~];

4. The purchase and installation initially of equipment, facilities, and furnishings of a permanent nature for buildings;

5. The acquisition of any building to be occupied by any***:***

a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020***;***

b. Municipal corporation which exercises its authority on a state-wide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of a municipal corporation which exercises its authority on a state-wide basis;[~~,~~] and

c. [~~Any~~] Institution of higher education;

6. The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and

7. Major items of equipment, to include aircraft, estimated to cost ***one hundred*** [~~fifty~~] thousand dollars ***($100,000)*** [~~($50,000)~~] or more.

(c) "Capital projects" means***, regardless of the source of funds:***

1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more***;***[~~, and~~]

2. A "major item of movable equipment," estimated to cost ***one hundred*** [~~fifty~~] thousand dollars ***($100,000)*** [~~($50,000)~~] or more***; and***

3. Equipment projects which constitute a computer or telecommunications system, as defined in a regulation which shall be promulgated by the Kentucky Information Systems Commission, estimated to cost two hundred thousand dollars ($200,000) or more [~~, regardless of the source of funds~~].

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or

2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(g) "Capital construction funds" means any funds used for capital construction, including but not limited to appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.

(h) "Entity head" means the Chief Justice of the Supreme Court, the President Pro Tem of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.

(2) ***Except as provided in subsection (3) of this section,*** KRS 45.760 to ***45.810*** [~~45.800~~] shall apply to capital projects and bonds for use by***:***

(a) The state government***;*** [~~or~~]

(b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020***;***[~~, including~~]

(c) A municipal corporation which exercises its authority on a state-wide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and

(d) Institutions of higher education.[~~, but excluding~~]

(3) KRS 45.760 to 45.810 shall not apply to:

(a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way***; and***[~~. KRS 45.760 to 45.800 shall not apply to~~]

(b) Political subdivisions, except for those defined in KRS 12.010***,*** [~~or~~] enumerated in KRS 12.020***, or created as a municipal corporation which exercises its authority on a state-wide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation.***

Section 2. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The ***head of each of the three (3) branches of government*** [~~Governor~~] shall include in the [~~executive~~] branch budget recommendation and in the draft branch budget bill for ***his*** [~~the executive~~] branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, ***1992*** [~~1980~~], and for each biennium thereafter, a recommended state capital ***projects*** [~~construction~~] program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;

2. The justification for the project;

3. Its estimated completion date;

4. The total estimated cost of completing the project;

5. The estimated cost of the project during the biennium;

6. The recommended sources of funds for the entire project; and

7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in ***each*** [~~the executive~~] branch budget recommendation. ***Each*** [~~The~~] branch budget bill [~~for the executive branch~~] shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, ***1992*** [~~1980~~], and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in the ***appropriation acts, budget memorandum, and biennial budget report*** [~~executive branch budget recommendation and in the branch budget bill for the executive branch~~] enacted by the General Assembly, except as provided in ***this section,*** KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment***, submitted by the head of each of the three (3) branches of government,*** shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item***, including ancillary expenses and any expenses necessary to make the equipment functional and operational***;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital ***Projects*** [~~Construction~~] Program. ***General fund*** moneys appropriated for that project or item of equipment but not allotted, and ***general fund*** moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency ***or federal*** funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, ***1992*** [~~1980~~], and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the [~~executive branch budget recommendation and in the~~] appropriation [~~act or~~] acts***, budget memorandum, and biennial budget report*** enacted by the General Assembly and authorizing the purchase, except as provided in subsection (12) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in the [~~biennial budget report and~~] appropriation [~~act or~~] acts***, budget memorandum, and biennial budget report*** enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) ***Moneys from any source may be transferred to the allotment account of any capital project, authorized by the General Assembly under KRS 45.760, subject to the following conditions and procedures:***

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the [~~biennial budget report and~~] appropriation [~~act or~~] acts***, budget memorandum, and biennial budget report***, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) ***The relevant entity head, or his designee,*** [~~the Finance and Administration Cabinet~~] shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15)[~~(14)~~] [~~The General Assembly may provide in a budget bill for~~] The capital construction and equipment purchase contingency fund ***may*** [~~to~~] be used to advance funds to projects authorized to be financed by bonds, [~~and~~] to finance feasibility studies for projects which may be contemplated for future funding***, or to audit the capital projects program when authorized by the General Assembly.***

(16)[~~(15)~~] On or before ***October*** [~~September~~] 1, ***each of the three (3) branches of government*** [~~the secretary of the Finance and Administration Cabinet~~] shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation; ***and***

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

[~~9. Justification for the project or major item of equipment;~~]

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 3. KRS 45.765 is amended to read as follows:

The draft appropriation [~~act or~~] acts submitted to the General Assembly [~~by the Governor~~], and the appropriation [~~act or~~] acts enacted by the General Assembly, shall comply with the provisions of KRS 45.750 to ***45.810*** [~~45.800~~]. Expressions of general exclusion, including but not limited to, "any act or statute to the contrary notwithstanding," and, "the provisions of any other law notwithstanding," shall not be effective as an exemption from the provisions of KRS 45.750 to ***45.810*** [~~45.800~~]. Exemptions from the provisions of KRS 45.750 to ***45.810*** [~~45.800~~] shall include the specific projects exempted.

Section 4. KRS 45.770 is amended to read as follows:

(1) There is created within the capital construction fund the capital construction and equipment purchase contingency account. The account shall consist of moneys appropriated to the account by the General Assembly.

(2) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a capital construction project, authorized by the General Assembly under KRS 45.760, subject to the following conditions and procedures:

(a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized project shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the project, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.

(b) Subject to paragraph (c) of this subsection, if the cost of an authorized project exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost of the project may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the project.

(c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, ***at least fourteen (14) days prior to the committee meeting,*** for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the commissioner of the Department for Facilities Management, Finance and Administration Cabinet, that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(3) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a major item of equipment, authorized by the General Assembly under KRS 45.760, for expenditure on that item subject to the following conditions and procedures:

(a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized major item of equipment shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the item, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.

(b) ***If*** [~~In the event that~~] the cost of an authorized major item of equipment exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the item.

(c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, ***at least fourteen (14) days prior to the committee meeting,*** for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the secretary of the Finance and Administration Cabinet that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(4) [~~The General Assembly may provide in a budget bill amounts for specific purposes for projects which cannot be individually identified.~~

~~(5)~~] Unless the project is the subject of litigation, final acceptance of a project shall occur no later than thirteen (13) months after the project is transferred to the Commonwealth of Kentucky. No later than thirty (30) days after final acceptance of a project or item of equipment by the Commonwealth of Kentucky, moneys constituting the available balance in the project or equipment account shall be transferred ***as follows:***

(a) If the project was a line item in the budget and not funded with road funds, then the balance shall be transferred to the capital construction surplus account.

(b) If the project was a line item in the budget and funded with road funds, then the balance shall be transferred to the road fund surplus account.

(c) If the project was completed within the biennium in which it was authorized, and if the project was funded from a major maintenance pool, then the balance shall be transferred to that major maintenance pool.

(d) If the project was not completed within the biennium in which it was authorized, without being expressly reauthorized by a succeeding session of the General Assembly, then the balance shall be transferred to the capital construction surplus account [~~to the appropriated, but unallotted account within the capital construction fund, and the project or equipment account shall be closed. The Finance and Administration Cabinet shall notify the committee of the final acceptance of a project or item of equipment, the transfer of the available balance, and the closing of the account no later than thirty (30) days following the closing of the account~~].

Section 5. KRS 45.780 is amended to read as follows:

(1) There is created within the capital construction fund the emergency repair, maintenance and replacement account. The account shall consist of moneys appropriated to the fund by the General Assembly.

(2) The Finance and Administration Cabinet may transfer money from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project, for expenditure thereon, even though the specific project is not included in the [~~biennial budget report and~~] appropriation [~~act or~~] acts***, budget memorandum, and biennial budget report*** enacted for that biennium. The Finance and Administration Cabinet shall report each [~~such~~] transfer, including the necessity, purpose, and amount of the transfer, to the Capital Projects and Bond Oversight Committee not later than thirty (30) days after the transfer.

Section 6. KRS 45.800 is amended to read as follows:

(1) Except as otherwise provided in subsection (2)(b) of KRS 45.770, prior to transferring funds from ***any source*** [~~the capital construction and equipment purchase contingency account~~] to the allotment account of a capital construction project or major item of equipment, the ***relevant entity head, or his designee,*** [~~secretary of the Finance and Administration Cabinet~~] shall present to the Capital Projects and Bond Oversight Committee, ***at least fourteen (14) days prior to the committee meeting,*** for its review, specification of the amount of the proposed transfer, documentation of the necessity for the transfer, and, with respect to capital construction projects, documentation of:

(a) The amount already expended on the project prior to and during the current biennium; and

(b) Any alterations made or planned in the project since its consideration by the General Assembly during the most recent regular session.

(2) Within thirty (30) days after submission to the committee of a proposed capital construction and equipment purchase contingency account transfer, the committee shall determine whether the amount of the proposed transfer is reasonable and consistent with KRS 45.770, whether the proposed transfer is necessary, and whether any alterations made or planned in a project materially change the project as considered and authorized by the General Assembly. ***If the committee does not approve a proposed transfer or other proposed action, the committee shall promptly transmit its findings and determination to the head of the entity that presented the proposal*** [~~The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet~~].

(3) If the committee ***does not approve*** [~~disapproves~~] a proposed transfer or other proposed action, the transfer shall not be made nor the action taken unless the ***relevant entity head, or his designee,*** [~~secretary of the Finance and Administration Cabinet~~] shall:

(a) Revise the transfer or action to comply with the objections of the committee; or,

(b) Cancel the transfer or action; or,

(c) Determine to make the transfer or take the action ***not approved*** [~~disapproved~~] by the committee.

(4) The decision made by the ***relevant entity head, or his designee,*** [~~secretary of the Finance and Administration Cabinet~~] under the preceding subsection shall be communicated to the committee in writing within thirty (30) days of the committee's ***not approving the proposed transfer or other proposed action*** [~~disapproval~~].

(5) The ***committee*** [~~Legislative Research Commission~~] shall maintain records of ***its*** [~~the committee's~~] findings and determinations and the ***relevant entity head's, or his designee's,*** [~~secretary of the Finance and Administration Cabinet's~~] report of ***his*** [~~its~~] action on each proposed transfer from the capital construction and equipment purchase contingency account. If the committee determines that the amount of a proposed transfer is not reasonable or is not consistent with KRS 45.770, or that the transfer is not necessary, or if the committee finds that any alteration in a project materially changes the project as considered and approved by the General Assembly, the committee's determination and the [~~cabinet's~~] action ***of the secretary of the Finance and Administration Cabinet, or other appropriate entity head,*** on the transfer shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.

(6) The ***committee*** [~~Legislative Research Commission~~] shall maintain reports of purchases made under subsection (10) of KRS 45.760, reports of transfers made under KRS 45.760 to this section, reports of transfers made from the emergency repair, maintenance, and replacement account, and a record of any committee finding or recommendation relating to such purchases and transfers.

(7) The [~~Capital Projects and Bond Oversight~~] committee shall monitor the costs of state capital construction projects in comparison with the costs of construction for the private sector to determine whether the costs are comparable and, if not comparable, the reasons for any difference. The committee shall consider contractors' charges to the state, land acquisition costs, costs and availability of materials, cost and availability of labor, and laws, regulations, and purchasing procedures pertaining to state capital construction projects that are not applicable to construction for the private sector. The committee's findings and recommendations shall be transmitted to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when convened.

Section 7. KRS 45.810 is amended to read as follows:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the Capital Projects and Bond Oversight Committee***, at least fourteen (14) days prior to the committee meeting,*** for review and recommendation. The Turnpike Authority[~~, the School Facilities Construction Commission, and the Kentucky Development Finance Authority~~] shall be exempt from this review.

(2) The Capital Projects and Bond Oversight Committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the appropriations act.

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the Finance and Administration Cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the secretary of the Finance and Administration Cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

Section 8. (1) The Finance and Administration Cabinet shall engage a certified public account or a firm of certified public accountants to conduct an examination of the Commonwealth's capital projects program financial statements, conditions, transactions, and affairs in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting contracts and procedures. The secretary of the Finance and Administration Cabinet, after consulting with the Governor's Office for Policy and Management and the Capital Projects and Bond Oversight Committee, shall determine the scope of the examination.

(2) By July 1, 1995, the report shall be completed and furnished to the Governor, the Auditor of Public Accounts, and the Capital Projects and Bond Oversight Committee.

(3) The audit shall be paid for out of the capital construction and equipment purchase contingency account.

The Committee Amendment No. 1 to **HB 258** is as follows:

Amend printed copy of **HB 258** on page 2, line 7 after "***of***" insert "***the governing body of***"

On page 5, line 22 delete "***and***" and after "***Corporation***" insert "***, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a state-wide basis.***"

On page 6, line 4 delete "***1992***" and insert in lieu thereof "***1994***"

On page 22, line 2 after "***committee***" insert "***, unless the Legislative Research Commission directs otherwise,***"

On page 22, line 25 after "***committee***" insert "***, unless the***" and remove the brackets and strike throughs on "Legislative Research"

On page 22, line 26, remove the brackets and strike throughs on "Commission" and after "Commission" add "***directs otherwise,***"

On page 23, line 18 after "***committee***" insert "***, unless the***" and remove the brackets and strike throughs on "Legislative Research"

On page 23, line 19 remove the brackets and strike throughs on "Commission" and after "Commission" add "***directs otherwise,***"

HB 263, AN ACT relating to the Vietnam veterans' bonus and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 40.410 TO 40.560 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 40.470:

(1) Applications for the bonus may be filed with or sent to the adjutant general or his administrator before the ninety-first day following the effective date of this

Act.

(2) Applications for the bonus received after the date specified in KRS 40.470(2) and prior to the effective date of this Act shall be deemed to have been timely filed under the provisions of KRS 40.410 to 40.560 and shall be processed forthwith.

(3) The adjutant general or his administrator shall advertise the additional period of application provided for in this Act.

Section 2. KRS 40.560 is amended to read as follows:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the Governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Vietnam Veterans' Bonus Board of Review." The Governor shall designate a chairman and a secretary from among the membership.

(2) Three (3) members and no more shall constitute a board of review, and shall by concurrence of two (2) members decide any claim which comes before the board in the manner provided in KRS 40.520. The chairman of the board shall designate three (3) members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated fifty dollars ($50.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eighteen cents (18) per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three (3) members designated for that purpose. In every case, the board shall either affirm the decision of the administrator, or determine that a veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made shall be signed by at least two (2) of the three (3) members designated to decide the claim, and upon concurrence of two (2) members, a decision shall be final and not subject to reconsideration.

(5) When, after ***the ninety-first day following the effective date of this Act*** [~~March 1, 1990~~], the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the Governor in writing. The Governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

Section 3. Any unexpended appropriation made to the Department of Military Affairs, Vietnam Veterans' Bond Trust Fund, pursuant to the provisions of 1990 Kentucky Acts, Chapter 514, part 1, A., 10., for payment of the Vietnam Veterans' bonus or the administration of the bonus, shall be used for payment of such bonuses authorized by this Act and attendant administrative cost, and such funds are hereby appropriated.

Section 4. In the event that the funds appropriated in Section 3 of this Act are insufficient to pay the bonuses authorized by this Act, such payments shall be deemed a necessary governmental expense and paid by the State Treasurer upon approval of the Finance and Administration Cabinet.

Calendar

HB 88, **HB 182**, **HB 215**, **HB 62** and **HB 191** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended for the introduction of guests and to act upon Resolutions. Agreed.

Representative Richardson moved the adoption of the following **HR 43**:

HR 43, A RESOLUTION in honor of the Leadership Winchester-Clark County 1992 class.

WHEREAS, the members of the Leadership Winchester-Clark County 1992 class are visiting the 1992 session of the Kentucky General Assembly; and

WHEREAS, these fine individuals exemplify concerned citizens who want to be part of understanding issues and solving problems of Clark County and the Commonwealth; and

WHEREAS, as members of the fourth Leadership Winchester-Clark County Class these citizens join 45 other men and women at home as a valuable resource and motivated network to assist in the growth and development of Winchester and Clark County; and

WHEREAS, since 1988, the Winchester-Clark County Leadership graduates have established four affiliated programs to lend support in making Clark County an even better place to live;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body congratulates the Leadership Winchester-Clark County 1992 class for the countless hours spent in learning about their community and its assets and needs.

Section 2. That this honorable body highly commends the Leadership Winchester-Clark County 1992 class for its willingness to increase the awareness of local concerns, and wishes the Leadership Winchester-Clark County 1992 class success in all future endeavors.

Section 3. That the Clerk of the House of Representatives is directed to deliver twenty-three copies of this Resolution to the Honorable Paul Richardson for presentation to the Leadership Winchester-Clark County 1992 class.

HR 43 was adopted by voice vote.

Representative Richardson moved that a call of the roll be taken to show co-sponsors of **HR 43**.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lile, Little, Long, Lyne, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Riggs, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0

Floor Amendments

Floor Amendment No. 1 to **HB 2**, by Representative B. Smith:

Amend printed copy of **HB 2** on page 2, line 23, by inserting after the word "crops" the comma and words "***, including timber,***".

Floor Amendment No. 1 to **HB 50**, by Representative Lear:

Amend printed copy of **HB 50** on page 2, line 10, by deleting "***one thousand dollars ($1,000)***" and inserting in lieu thereof "***five thousand dollars ($5,000)***"; and

On line 12, after "Section 2." by deleting the remainder of the line and lines 13 and 14 in their entirety and inserting in lieu thereof:

"KRS 61.770 is amended to read as follows:

The office or candidacy of any person required by KRS 61.710 to 61.780 to file a report who fails to file the report required by KRS 61.710 to 61.780 within ***sixty (60)*** [~~thirty~~] days after receipt of the Registry's notice of noncompliance provided in KRS 61.750 or willfully files fraudulent information shall be void, and the office or candidacy shall be filled as provided by law for the filling of the vacancy. An action to declare a vacancy under KRS 61.710 to 61.780 may be brought by the Registry upon its determination, after investigation and hearing, that a violation of KRS 61.710 to 61.780 has occurred."

Representative Moberly moved the adoption of the following **HR 47**:

HR 47, A RESOLUTION in honor of the Leadership Madison County 1992 class.

WHEREAS, the members of the Leadership Madison County 1992 class are visiting the 1992 session of the Kentucky General Assembly; and

WHEREAS, these fine individuals exemplify concerned citizens who want to be part of understanding issues and solving problems of Madison County and the Commonwealth; and

WHEREAS, as members of the Leadership Madison County 1992 class, these citizens have proven to be a valuable resource and motivated network in assisting in the growth and development of Madison County; and

WHEREAS, through the support of the Leadership Madison County 1992 graduates, Madison County has proven to be an even better place to live;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body congratulates the Leadership Madison County 1992 class for the countless hours spent in learning about their community and its assets and needs.

Section 2. That this honorable body highly commends the Leadership Madison County 1992 class for its willingness to increase the awareness of local concerns, and wishes the Leadership Madison County 1992 class success in all future endeavors.

Section 3. That the Clerk of the House of Representatives is directed to deliver twenty-two copies of this Resolution to the Honorable Harry Moberly for presentation to the Leadership Madison County 1992 class.

HR 47 was adopted by voice vote.

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 179**, **HB 265**, **HB 62** and **HB 215** have been posted for passage in the Orders of the Day for January 24, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 123**, **HB 191**

Orders of the Day

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

HJR 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HJR 46** be adopted.

HJR 46, A JOINT RESOLUTION regarding the date of submission of branch budget recommendations to the General Assembly, and declaring an emergency.

WHEREAS, the Finance and Administration Cabinet and the Legislative Research Commission have finalized detailed revenue estimates for the General Fund and the Road Fund for the current fiscal year and the 1992-94 biennium;

WHEREAS, the current revenue estimates, reflecting the lingering impacts of the national recession, predict income to each fund below the levels presented to the Interim Joint Committee on Appropriations and Revenue of the General Assembly in October 1991;

WHEREAS, the current revenue estimates confront the heads of the three branches of government with a difficult task in developing recommendations for a balanced Commonwealth budget for the 1992-94 biennium;

WHEREAS, there is a free flow of information between the executive and legislative branches of government regarding the economic condition of the Commonwealth;

WHEREAS, a spirit of cooperation exists among the executive, judicial, and legislative branches of government in their attempts to resolve the fiscal plight of the Commonwealth; and

WHEREAS, it would be prudent and wise to extend the budget submission date specified in KRS 48.100 to afford the heads of the three branches of government additional time to consider and submit budget recommendations which are consistent with the final revenue estimates and which provide for the basic needs of the citizens of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the requirement that branch budget recommendations shall be submitted to the General Assembly by the Governor for the Executive Branch, the Chief Justice for the Judicial Branch and the Legislative Research Commission for the Legislative Branch, not later than the fifteenth legislative day of the regular session in the year following the election of the Governor, provided for in KRS 48.100(1), is hereby suspended for the 1992 Regular Session of the General Assembly.

Section 2. That branch budget recommendations shall be submitted to the General Assembly by the Governor, the Chief Justice, and the Legislative Research Commission not later than the twentieth legislative day of the 1992 Regular Session of the General Assembly.

Section 3. Whereas it is necessary that the provisions of this Resolution take effect immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

On the roll call the vote was: Yeas 92, Nays 0. (See January 23, 1992 roll call on **HJR 46** - Appendix A.)

HJR 46 was adopted.

Representative Stumbo moved that **HB 50** be taken from the Clerk's desk and placed in the Orders of the Day for January 24, 1992. Agreed.

HB 19, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved the adoption of Floor Amendment No. 1 to **HB 19**.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Reinhardt, Richards, Riggs, Riner, Sanders, Scorsone, Sheehan, R. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Floor Amendment No. 1 to **HB 19** was adopted.

Representative Jensen moved the adoption of Floor Amendment No. 2 to **HB 19**. Agreed.

Representative Riggs moved that **HB 19**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 23, 1992 roll call on **HB 19** - Appendix A.)

HB 19, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 19**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 128, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Amendment No. 1 to **HB 128**. Agreed.

Representative Hancock moved the adoption of Floor Amendment No. 1 to **HB 128**. Agreed.

Representative Hancock moved that **HB 128**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See January 23, 1992 roll call on **HB 128** - Appendix A.)

HB 128, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 128**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 4** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 23, 1992 roll call on **HB 4** - Appendix A.)

HB 4 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 27, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 27**. Agreed.

Representative Callahan moved that **HB 27**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 74, Nays 12. (See January 23, 1992 roll call on **HB 27** - Appendix A.)

HB 27, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 27**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 29** be passed.

On the roll call the vote was: Yeas 65, Nays 26. (See January 23, 1992 roll call on **HB 29** - Appendix A.)

HB 29 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 29** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 136 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 136** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See January 23, 1992 roll call on **HB 136** - Appendix A.)

HB 136 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 136** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that **HB 3** be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See January 23, 1992 roll call on **HB 3** - Appendix A.)

HB 3 was passed and the title agreed to.

Representative Maggard moved that the vote by which **HB 3** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 48, by Representative Stumbo: A RESOLUTION honoring the Kentuckians For The Commonwealth.

Representative Stumbo moved the adoption of the following **HR 48**:

HR 48, A RESOLUTION honoring the Kentuckians For The Commonwealth.

WHEREAS, the Kentuckians For The Commonwealth (KFTC) began in 1981 as the Kentucky Fair Tax Coalition, a small, grassroots citizen organization with membership only in the eastern coalfields of the state; and

WHEREAS, today KFTC has chapters in more than ninety Kentucky counties and is recognized throughout the state as a citizen social justice organization; and

WHEREAS, the KFTC fosters democratic values, changes unjust institutions, empowers the people, and enhances the common welfare; and

WHEREAS, the persistence of the citizen members of the KFTC has resulted in the constitutional repeal of the abuses of the broad form deed, the fair taxation of unmined minerals, the reduction in the pollution of drinking water caused by coal mining and oil and gas operations, the greater local control of hazardous and solid waste disposal, and the development of local leadership;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentuckians For The Commonwealth be recognized and highly commended for a decade of social justice contributions made by its citizen members for the benefit of all Kentuckians.

Section 2. That the Kentuckians For The Commonwealth be highly commended for its recognition of the potential power of the grassroots organization and the use of that power for the common welfare, and for its recognition of the worth of the individual.

Section 3. That a copy of this resolution be sent to the Chair of the Kentuckians For The Commonwealth.

HR 48 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 48**.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Arnold, Barrows, Bentley, Blandford, Bowling, Bronger, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Keith, Kerr, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative J. Harper moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Harper moved that his vote be changed from "nay" to "yea" on **HB 3**. Agreed.

Representative Freibert moved the adoption of the following **HR 41**:

HR 41, A RESOLUTION relating to international cooperation and understanding and commending the American worker.

WHEREAS, through the coordinated, diligent and untiring efforts of American labor and management, the United States has achieved one of the highest standards of living in the world; and

WHEREAS, the United State's gross national product (GNP) is a phenomenal 5.5 trillion and the per capita income is approximately $17,000; and

WHEREAS, the high productivity of the American worker has contributed substantially to improving the quality of life and creating world class products that are able to compete in virtually any open market; and

WHEREAS, nations of the world have recently undertaken a new world order that is based upon international cooperation, mutual understanding, and the use of international organs and law to promote world trade, enhance economic and social development, and encourage human rights and democracy; and

WHEREAS, for the first time since World War II, the thawing of the Cold War has provided the fertile soil for the elusive seed of international cooperation and a better world for all of its inhabitants; and

WHEREAS, although all nations have their own unique strengths and weaknesses, the nations of the world must ardently strive to overcome their stereotypes, biases, and prejudices; and

WHEREAS, the recent remarks by the speaker of Japan's lower parliamentary chamber, Yoshio Sakurauchi, did not encourage a better understanding of other peoples, did not promote a lessening of international tensions and xenophobic reactions, and did not accurately reflect the abilities of the well-trained American worker; and

WHEREAS, the immense and thorny international problems must be confronted through a unified and logical approach by all nations if we are to develop a more peaceful and more prosperous world;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body continues to recognize and commend the highly skilled and dedicated American workers for their outstanding contributions.

Section 2. That this honorable body does express its deep concern and regret over the recent statements regarding the abilities of the American worker.

Section 3. That the United States and Japanese governments be urged to increase significantly their efforts and resources to diffuse tensions and to promote a better understanding of one another's peoples and problems, to attack vigorously problems and myths which separate the two friends and allies, and to work ardently toward creating an international economy that will elevate the standard of living, increase economic and social development, and foster human rights and democracy.

Section 4. That copies of this Resolution be sent to President George Bush, Prime Minister Kiichi Miyazawa, and Speaker Yoshio Sakurauchi.

HR 41 was adopted by voice vote.

Representative Farrow moved the adoption of the following **HR 42**:

HR 42, A RESOLUTION recognizing the Elkhorn Creek and the Interlocal Planning Consortium.

WHEREAS, the Elkhorn Creek, which flows through Scott, Franklin, Fayette, and Woodford Counties, contributes significantly to the Bluegrass region's historic, recreational, economic, and social well-being; and

WHEREAS, through the leadership of the citizens of Scott County, state and local cooperative efforts to restore and enhance the quality of the creek and promote its wise use and stewardship have been initiated; and

WHEREAS, interlocal cooperation and state and local partnerships, as developed through the Elkhorn Creek Interlocal Planning Consortium, are critical to the future protection and management of the Elkhorn Creek as well as the thousands of miles of streams and rivers Kentucky needs for drinking, a healthy environment, recreation, and a sound economy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky General Assembly recognizes the Elkhorn Creek Interlocal Planning Consortium as a model local initiative and promotes its use as an effective mechanism for the protection and management of stream and river resources across the state.

Section 2. That the Kentucky General Assembly recognizes those local, state and community leaders who, through their support and commitment, contributed to the success of the Elkhorn Creek Interlocal Planning Consortium, including:

The Honorable George Lusby, Scott County Judge/Executive;

The Honorable Scotty Beasler, Mayor, City of Lexington;

The Honorable Bob Arnold, Franklin County Judge/Executive;

The Honorable Denny Nunnelley, Woodford County Judge/Executive;

The Honorable Tom Prather, Mayor, City of Georgetown;

The Elkhorn Land and Historic Trust;

The Kentucky Heritage Council;

The Kentucky Division of Water;

The National Park Service;

The U.S. Soil Conservation Service; and

The Kentucky Department of Local Government.

Section 3. That the Clerk of the House of Representatives is directed to send a copy of this Resolution to Milt Patton, 312 East Jackson Street, Georgetown, Kentucky 40324.

HR 42 was adopted by voice vote.

Representative Farley moved the adoption of the following Legislative Citation No. 7. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors BEATRICE COX as a dedicated and inspirational educator who is devoted to the academic attainment and personal development of Kentucky students. Through your participation and successful completion of the American Heart Association's Cardiopulmonary Resuscitation and Emergency Cardiac Care course, you served as an outstanding role model for your students.

This prestigious body joins Representative Don Farley in recognizing you for your efforts. We extend to you our best wishes for future success.

Representative Hatcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hatcher moved that his vote be changed from "nay" to "yea" on **HB 3**. Agreed.

Representative Farley moved the adoption of the following Legislative Citation No. 8. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends PAUL EDWARD GRAY, JR., SCOTT JUSTICE BOWLING, TIFFANY M. DOVE, BRAD HAMPTON, OMAR HENRY, GARY LEE KELLY, RYAN LYNCH, KRISTEN NcCOY, BEVERLY YVONNE MOORE, BRANDON PACKWARD, KATHRYNE BREWER RAINES, JOE SONGER, JOHN M. STAPLETON, TIFFANY A. THOMSON, AMY D. WEBB, KATIE WEBB, JENNY VOELTZ, CHRISTOPHER ROBBINS CHRISTIAN, ERICA HALLER, BRYNN BLEVINS, STEPHEN CURTIS, APRIL ELIZABETH FARMER, KERI LEIGH HENSLEY, APRIL FAWN KEMPER, MATT LOVELACE, BILL MILLER, JR., NASIM RAZAK, ERIN RUTH SHATTLES, JAMES ALLEN THOMPSON, STEPHANIE SOUTHERS, JOHN BENNER, TRAVIS EHRIE, ROBERT JOBE, GLENDA NcCOY, LISA MELVIN, BRYAN MULLINS, SEAN B. SAUNDERS, RANDY VANHOOSE, MIKE MEADOWS for your successful completion of the American Heart Association's Cardiopulmonary Resuscitation and Emergency Cardiac Care Course. This outstanding achievement has been obtained as a result of your dedication and hard work. Participation in programs such as this demonstrates the continued desire for academic and personal excellence. May the merits of this accomplishment remain with you and guide you through future endeavors.

This prestigious body joins Representative Don Farley in recognizing you for this outstanding accomplishment: We extend to you our best wishes for continued success in the future.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 27**. Agreed.

Representative Riner moved the adoption of the following Legislative Citation No. 6. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors DONALD E.WOODLETT for his musical contributions to the Commonwealth. As a gifted gospel songwriter, Christian home educator and folk historian, Donald Woodlett has touched many with his unique talents. He has expressed his great interest in Kentucky's 200th Birthday by composing the inspiring "Kentucky Dreams". "Kentucky Dreams" will be recognized as the official Bicentennial Song.

This prestigious body joins Representative Tom Riner in saluting Donald E. Woolett for his many accomplishments and contributions to the Kentucky Bicentennial Celebration. We extend to you our best wishes for the future.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 333, by Representative McElroy: AN ACT relating to the licensing of motor vehicles.

HB 334, by Representative Heleringer: AN ACT relating to guardianship.

HB 335, by Representatives B. Smith, Altman, Coleman and Pritchett: AN ACT relating to child support.

HB 336, by Representatives Butler, Cyrus and Donnermeyer : AN ACT relating to retirement boards in cities of the second class.

HB 337, by Representatives J. Harper, Jensen, Zimmerman, Ford and Toby: AN ACT relating to state mandates.

HCR 49, by Representatives Little and Hancock: A CONCURRENT RESOLUTION encouraging the Kentucky Department of Highways to consider various alternative financing methods for the development of Kentucky's roads.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism Development and Energy: **HB 238**

Judiciary: **HB 46, HB 302, HB 301, HB 299, HB 98**

Health and Welfare: **HB 150, HB 310**

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 116**, with Committee Substitute attached thereto, **HB 120**, with Committee Substitute attached thereto, **HB 121**, with Committee Amendment attached thereto, and **HB 122**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 116, AN ACT relating to children with an emotional disability or severe emotional disability and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.501 is amended to read as follows:

The Kentucky General Assembly finds that services to children are provided by various departments and agencies at both the state and local level, often without appropriate policy collaboration and service coordination. The General Assembly declares that the purpose of KRS 200.501 to 200.509 is to establish a structure for coordinated policy development, comprehensive planning, and collaborative budgeting for services to children with emotional ***disability*** [~~disturbance~~] and their families. It is further the intention of the General Assembly to build on the existing resources and to design and implement a coordinated service system for children with emotional ***disability*** [~~disturbance~~] or severe emotional ***disability*** [~~disturbance~~] that is community based and centered on the needs of the individual child and family. ***Children with a severe emotional disability who are receiving institutional care or are at risk of institutional placement shall be given priority for services pursuant to KRS 200.501 to 200.509.***

Section 2. KRS 200.503 is amended to read as follows:

As used in KRS 200.501 to 200.509, unless the context otherwise requires:

(1) ***"Child with an emotional disability"*** [~~"Emotionally disturbed child"~~] means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school, or community.

(2) ***"Child with a severe emotional disability"*** [~~"Severely emotionally disturbed child"~~] means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:

(a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain, and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings; or

(b) Is a Kentucky resident and is receiving residential treatment for emotional ***disability*** [~~disturbance~~] through the interstate compact; or

(c) The Department for Social Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral or emotional disturbance; or

(d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit.

(3) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a child with an emotional disability or severe emotional disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement.

Section 3. KRS 200.505 is amended to read as follows:

(1) There is hereby created a State Interagency Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~]. This council shall be composed of a designee of the state Department of Education and of the following members who shall serve by virtue of their positions: the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts or their designees. ***One (1) parent of a child with an emotional disability, who is a consumer of state funded services shall be chosen by the Juvenile Justice Commission to serve as a member of the Council.*** The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(2) The State Interagency Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~] shall:

(a) Consider issues and make recommendations ***annually to the Governor and the Legislative Research Commission*** regarding the provision of services for ***children with an emotional disability*** [~~emotionally disturbed children~~];

(b) ***Ensure that*** [~~Advise~~] each regional interagency council ***provides*** [~~for~~] services to ***children with an emotional disability through*** [~~emotionally disturbed children on~~] the effective coordination of services to those children;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred ***for services*** to any intragency council for ***children with an emotional disability*** [~~emotionally disturbed children~~]. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for ***whom*** [~~which~~] such reviews are requested, and provide such advice and assistance as the state council determines to be necessary to meet the needs of ***children with an emotional disability*** [~~emotionally disturbed children~~] referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of ***children with an emotional disability*** [~~emotionally disturbed children~~];

(f) ***Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals my be initiated by the child, parent, guardian, or other authorized representative about matters relating to the individual service plan for the child or the denial of services by the regional interagency council*** [~~Advise the Governor and the Legislative Research Commission at least annually, regarding the Commonwealth's service delivery to emotionally disturbed children~~];

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to ***children with emotional disability*** [~~emotionally disturbed children~~] by the agencies represented in the state council; and

(i) Develop ***services*** [~~service programs~~] to meet the needs of ***children with emotional disability*** [~~emotionally disturbed children~~].

Section 4. KRS 200.507 is amended to read as follows:

The secretary for human resources, the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~] is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.

Section 5. KRS 200.509 is amended to read as follows:

(1) There ***are*** [~~is~~] hereby created regional interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~]. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members: the children's services coordinator from each regional community mental health center or their designee in the case of a multi-council district; one (1) court designated worker chosen by the ***Chief Regional*** District ***Judge*** [~~Court judges~~] within the ***region*** [~~district~~]; one (1) specialist in special education chosen by the school district superintendents in the area served by the regional council***; one (1) parent of a child with an emotional disability, who is a consumer of state funded services for emotionally disturbed children, and who shall be chosen by the Juvenile Justice Commission.*** In addition, a regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] may invite any other local public or private agency that provides services to ***children with an emotional disability*** [~~emotionally disturbed children~~] to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall be given compensation in addition to that which they already receive as service providers or state employees.

(3) Each regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) ***Coordinate the delivery of services to children with an emotional disability in the least restrictive alternative mode of treatment;***

(c) Ensure the timely development of the individual treatment plans for children with an emotional disability;

(d) Ensure that services identified in individual treatment plans are accessed and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to ***children with an emotional disability*** [~~emotionally disturbed children~~] by the agencies represented in the regional council;

(f)[~~(c)~~] Advise the State Interagency Council regarding service delivery to ***children with an emotional disability*** [~~emotionally disturbed children~~] within the region;

(g)[~~(d)~~] Refer those children for whom the regional councils cannot provide adequate services to the State Interagency Council;

(h) Implement the uniform grievance procedure established by the State Interagency Council;

(i)[~~(e)~~] Make periodic reports to the State Interagency Council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;

(j)[~~(f)~~] Recognize local interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] when it determines ***the council*** [~~such a group~~] would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the state Department of Education shall ensure that regional councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] are formed by October 1, 1990.

(5) Local interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for [~~emotionally disturbed~~] children ***with an emotional disability*** within a city, county, or other local community.

SECTION 6. A NEW SECTION OF KRS CHAPTER 200.501 TO 200.509 IS CREATED TO READ AS FOLLOWS:

A child with an emotional disability and the parent or guardian of that child shall have the right to:

(1) Be adequately informed as to priorities, philosophy, and policies of the regional interagency council;

(2) Be informed in advance of scheduled regional interagency council and treatment team meetings;

(3) Assist in the development of the individualized treatment plan;

(4) Refuse any aspects of the individualized treatment plan without jeopardizing the other components of the plan;

(5) Be adequately informed as to the individualized treatment plan and any revisions thereto and receive a written copy of the plan;

(6) Access all child-specific pertinent records and information accumulated by the regional interagency council;

(7) Access and utilize established grievance procedures without fear of retribution;

(8) Consult with existing advocacy groups for consultation and representation; and

(9) Receive an orderly transition to other available services if eligibility for regional interagency council services is ending.

SECTION 7. A NEW SECTION OF KRS CHAPTER 200.501 TO 200.509 IS CREATED TO READ AS FOLLOWS:

The Protection and Advocacy Division of the Department of Public Advocacy may provide representation to children with emotional disability or severe emotional disability as defined in KRS 200.503 or to children with emotional disturbance (behavior disorder) as defined in KRS 157.200 and who are experiencing difficulties in their educational or treatment settings. These services may be limited to the extent that funding is available.

Section 8. There is appropriated from the general fund of the State Treasury $129,125 in fiscal year 1993 and $135,124 in fiscal year 1994 to the Protection and Advocacy Division of the Department of Public Advocacy for the purpose of providing representation to children with emotional disability or severe emotional disability.

The Committee Substitute to **HB 116** is as follows:

HB 116, AN ACT relating to children with an emotional disability or severe emotional disability and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.501 is amended to read as follows:

The Kentucky General Assembly finds that services to children are provided by various departments and agencies at both the state and local level, often without appropriate policy collaboration and service coordination. The General Assembly declares that the purpose of KRS 200.501 to 200.509 is to establish a structure for coordinated policy development, comprehensive planning, and collaborative budgeting for services to children with ***an*** emotional ***disability or severe emotional disability*** [~~disturbance~~] and their families. It is further the intention of the General Assembly to build on the existing resources and to design and implement a coordinated service system for children with ***an*** emotional ***disability*** [~~disturbance~~] or severe emotional ***disability*** [~~disturbance~~] that is community based and centered on the needs of the individual child and family. ***Children with a severe emotional disability who are receiving institutional care or are at risk of institutional placement shall be given priority for services pursuant to KRS 200.501 to 200.509.***

Section 2. KRS 200.503 is amended to read as follows:

As used in KRS 200.501 to 200.509, unless the context otherwise requires:

(1) ***"Child with an emotional disability"*** [~~"Emotionally disturbed child"~~] means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school, or community.

(2) ***"Child with a severe emotional disability"*** [~~"Severely emotionally disturbed child"~~] means a child with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:

(a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain, and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings; or

(b) Is a Kentucky resident and is receiving residential treatment for emotional ***disability*** [~~disturbance~~] through the interstate compact; or

(c) The Department for Social Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral or emotional disturbance; or

(d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit.

(3) "Least restrictive alternative mode of treatment" means treatment given in the least confining setting which will provide a child with an emotional disability or severe emotional disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement.

Section 3. KRS 200.505 is amended to read as follows:

(1) There is hereby created a State Interagency Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~]. This council shall be composed of a designee of the state Department of Education and of the following members who shall serve by virtue of their positions: the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts or their designees. ***One (1) parent of a child with an emotional disability, who is a consumer of state funded services for children with an emotional disability shall be chosen by the Juvenile Justice Commission to serve as a member of the Council.*** The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(2) The State Interagency Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~] shall:

(a) Consider issues and make recommendations ***annually to the Governor and the Legislative Research Commission*** regarding the provision of services for ***children with an emotional disability*** [~~emotionally disturbed children~~];

(b) ***Direct*** [~~Advise~~] each regional interagency council ***to coordinate*** [~~for~~] services to ***children with an emotional disability and identify factors contributing to a lack of coordination*** [~~emotionally disturbed children on the effective coordination of services to those children~~];

(c) Develop a form to be signed by the parent or other legal guardian of a child referred ***for services*** to any ***interagency*** [~~intragency~~] council for ***children with an emotional disability*** [~~emotionally disturbed children~~]. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for ***whom*** [~~which~~] such reviews are requested, and provide such advice and assistance as the state council determines to be necessary to meet the needs of ***children with an emotional disability*** [~~emotionally disturbed children~~] referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of ***children with an emotional disability*** [~~emotionally disturbed children~~];

(f) ***Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council*** [~~Advise the Governor and the Legislative Research Commission at least annually, regarding the Commonwealth's service delivery to emotionally disturbed children~~];

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to ***children with an emotional disability*** [~~emotionally disturbed children~~] by the agencies represented in the state council; and

(i) Develop ***services*** [~~service programs~~] to meet the needs of ***children with an emotional disability*** [~~emotionally disturbed children~~].

Section 4. KRS 200.507 is amended to read as follows:

The secretary for human resources, the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State ***Interagency*** Council for Services to ***Children with an Emotional Disability*** [~~Emotionally Disturbed Children~~] is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.

Section 5. KRS 200.509 is amended to read as follows:

(1) There ***are*** [~~is~~] hereby created regional interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~]. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members: the children's services coordinator from each regional community mental health center or their designee in the case of a multi-council district; one (1) court designated worker chosen by the ***Chief Regional*** District ***Judge*** [~~Court judges~~] within the ***region*** [~~district~~]; one (1) specialist in special education chosen by the school district superintendents in the area served by the regional council***; one (1) parent of a child with an emotional disability, who is a consumer of state funded services for children with an emotional disability, and who shall be chosen by the Juvenile Justice Commission.*** In addition, a regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] may invite any other local public or private agency that provides services to ***children with an emotional disability*** [~~emotionally disturbed children~~] to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall be given compensation in addition to that which they already receive as service providers or state employees.

(3) Each regional interagency council for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) ***Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;***

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to ***children with an emotional disability*** [~~emotionally disturbed children~~] by the agencies represented in the regional council;

(f)[~~(c)~~] Advise the State Interagency Council regarding service delivery to ***children with an emotional disability*** [~~emotionally disturbed children~~] within the region;

(g)[~~(d)~~] Refer those children for whom the regional councils cannot provide adequate services to the State Interagency Council;

(h) Implement the uniform grievance procedure established by the State Interagency Council;

(i)[~~(e)~~] Make periodic reports to the State Interagency Council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; ***and***

(j)[~~(f)~~] Recognize local interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] when it determines ***the council*** [~~such a group~~] would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the state Department of Education shall ensure that regional councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] are formed by October 1, 1990.

(5) Local interagency councils for services to ***children with an emotional disability*** [~~emotionally disturbed children~~] may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for [~~emotionally disturbed~~] children ***with an emotional disability*** within a city, county, or other local community.

SECTION 6. A NEW SECTION OF KRS CHAPTER 200.501 TO 200.509 IS CREATED TO READ AS FOLLOWS:

A child with an emotional disability and the parent, person exercising custodial control or supervision, or guardian of that child shall have the right to:

(1) Be adequately informed as to priorities, philosophy, and policies of the regional interagency council;

(2) Be informed in advance of scheduled regional or local interagency council and interagency service planning meetings relevant to services to the child;

(3) Participate in the development of the interagency service plan and revisions thereto;

(4) Be adequately informed as to the interagency service plan and any revisions thereto and receive a written copy of the plan;

(5) Refuse the interagency service plan;

(6) Access and utilize established grievance procedures without discontinuation or delay of needed services while the grievance is pending;

(7) Access all child-specific pertinent records and information accumulated by the regional interagency council, provided that the release of the information is not prohibited by existing state and federal laws or regulations governing confidentiality;

(8) Consult with existing advocacy groups for consultation and representation; and

(9) Receive an orderly transition to other available services if eligibility for regional interagency council services is ending.

HB 120, AN ACT relating to the Department for Social Services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.461 is amended to read as follows:

(1) As used in this section, "family service worker" means a social worker employed by the Cabinet for Human Resources, Department for Social Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.

(2) ***As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.***

(3) The monthly statewide caseload average for family service workers in the area of foster care, child protection, juvenile services or adult protection shall not exceed twenty-five (25) active cases.

(4)[~~(3)~~] Nothing in this section shall prevent the department or a family service worker from handling emergencies to carry out statutory mandates. ***If***[~~; provided however, that whenever~~] the monthly statewide caseload average for family service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report ***the*** [~~such~~] fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. ***The report shall include, by county and district, family service worker caseload averages; the number of established family service worker positions; and the number of vacant family service worker positions.***

Section 2. KRS 194.360 is amended to read as follows:

The cabinet shall make an annual report to the Governor, the General Assembly, and the Chief Justice. The report shall be tendered to the above-named parties not later than December 1 of each year and shall include information for the previous fiscal year. The report shall include, but [~~need~~] not be limited to, the following information on children within the purview of the cabinet:

(1) ***The number of committed children according to the permanency planning goal;***

(2) The number of committed children according to current placement;

(3) The number of committed children according to the type of commitment;

(4) The average length of time children are committed according to the type of commitment;

(5) The number of [~~committed~~] children in ***family*** foster ***homes*** [~~care~~];

(6) The amount of funds expended by federal and state governments for social worker and administrative salaries, maintenance payments to foster parents, medical care, counseling services, and other supportive services required to maintain children in family foster homes;

(7)[~~(2)~~] The number of [~~committed~~] children placed in private child care facilities;

(8) The amount of funds expended by federal and state governments for social worker and administrative salaries, payments to private child care facilities, medical care, counseling services, and other supportive services required to maintain children in private child care facilities.

(9) The number of children placed with their biological parents, or persons exercising custodial control or supervision;

[~~(3) The amount of funds expended by federal and state governments for social worker and administrative salaries, maintenance payments to foster parents, medical care, counseling services, and other supportive services required to maintain children in foster homes;~~

~~(4) The amount of funds expended by federal and state governments for social worker and administrative salaries, payments to private child care facilities, medical care, counseling services, and other supportive services required to maintain children in private child care facilities;~~]

(10)[~~(5)~~] The amount of funds expended by federal and state governments for social worker and administrative salaries on protective services to children placed with their biological parents, or persons exercising custodial control or supervision of the child;

(11)[~~(6)~~] The amount of funds expended by federal and state governments for social worker and administrative salaries on ***reunification*** [~~rehabilitative~~] services provided to biological parents while the child has been placed in foster care;

(12)[~~(7)~~] The number of [~~foster~~] children ***in the custody of the Cabinet*** eligible for adoption, the number of [~~such~~] children adopted, and the number of [~~foster~~] children ***in the custody of the Cabinet*** determined not eligible for adoption and the reasons therefor;

(13)[~~(8)~~] The number of [~~foster~~] children placed in permanent ***substitute care*** or long-term foster care;

(14)[~~(9)~~] The average length of time ***a*** [~~each~~] child spends in foster care; [~~and~~]

(15) The average number of placements and moves experienced by children in foster care; and

(16)[~~(10)~~] Any other matters relating to the care of foster children which the cabinet deems appropriate and which may promote further understanding of the impediments to providing permanent homes for ***committed*** [~~foster~~] children.

The Committee Substitute to **HB 120** is as follows:

HB 120, AN ACT relating to the Department for Social Services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.461 is amended to read as follows:

(1) As used in this section, "family service worker" means a social worker employed by the Cabinet for Human Resources, Department for Social Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.

(2) ***As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.***

(3) The monthly statewide caseload average for family service workers in the area of foster care, child protection, juvenile services or adult protection shall not exceed twenty-five (25) active cases.

(4)[~~(3)~~] Nothing in this section shall prevent the department or a family service worker from handling emergencies to carry out statutory mandates. ***If***[~~; provided however, that whenever~~] the monthly statewide caseload average for family service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report ***the*** [~~such~~] fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. ***The report shall include, by county and district, family service worker caseload averages; the number of established family service worker positions; and the number of vacant family service worker positions.***

Section 2. KRS 194.360 is amended to read as follows:

The cabinet shall make an annual report to the Governor, the General Assembly, and the Chief Justice. The report shall be tendered to the above-named parties not later than December 1 of each year and shall include information for the previous fiscal year. The report shall include, but [~~need~~] not be limited to, the following information [~~on children within the purview of the cabinet~~]:

(1) ***The number of children under an order of dependent, status, public, or voluntary commitment to the cabinet, according to: permanency planning goals, current placement, average number of placements, type of commitment, and the average length of time children remain committed to the cabinet;***

(2) The number of children in the custody of the cabinet in the following types of residential placements, the average length of stay in these placements, and the average number of placements experienced by these children: family foster homes, private child care facilities, group homes, psychiatric facilities, and placement with biological parent or person exercising custodial control or supervision;

(3) The number of children in the custody of the cabinet eligible for adoption, the number placed in an adoptive home, and the number ineligible for adoption and the reasons therefor;

(4) The cost in federal and state general funds to care for the children defined in subsections (1) and (2) of this section, including the average cost per child for each type of placement [~~The number of committed children in foster care;~~

~~(2) The number of committed children placed in private child care facilities;~~

~~(3) The amount of funds expended by federal and state governments for social worker and administrative salaries, maintenance payments to foster parents, medical care, counseling services, and other supportive services required to maintain children in foster homes;~~

~~(4) The amount of funds expended by federal and state governments for social worker and administrative salaries, payments to private child care facilities, medical care, counseling services, and other supportive services required to maintain children in private child care facilities;~~

~~(5) The amount of funds expended by federal and state governments for social worker and administrative salaries on protective services to children placed with their biological parents, or persons exercising custodial control or supervision of the child;~~

~~(6) The amount of funds expended by federal and state governments for social worker and administrative salaries on rehabilitative services provided to biological parents while the child has been placed in foster care;~~

~~(7) The number of foster children eligible for adoption, the number of such children adopted, and the number of foster children determined not eligible for adoption and the reasons therefor;~~

~~(8) The number of foster children placed in permanent or long-term foster care;~~

~~(9) The average length of time each child spends in foster care~~]; and

(5)[~~(10)~~] Any other matters relating to the care of foster children which the cabinet deems appropriate and which may promote further understanding of the impediments to providing permanent homes for foster children.

HB 121, AN ACT relating to children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.090 is amended to read as follows:

(1) If, after completion of the temporary removal hearing, the court finds there are reasonable grounds to believe the child is dependent, neglected or abused, the court shall issue an order for temporary removal and shall grant temporary custody to the cabinet or other appropriate person or agency. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The order shall state the specific reasons for removal and show that alternative less restrictive placements and services have been considered. The court may recommend a placement for the child.

(2) In placing a child under an order of temporary custody, the cabinet or its designee shall use the least restrictive appropriate placement available. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The child may also be placed in a facility or program operated or approved by the cabinet, including a foster home, or any other appropriate available placement.

(3) If the court finds there are not reasonable grounds to believe the child is dependent, neglected or abused, or if no action is taken within seventy-two (72) hours, the emergency custody order shall be dissolved automatically and the cabinet or its designee shall return the child to the parent or other person exercising custodial control or supervision. A request for a continuance of the hearing by the parent or other person exercising custodial control or supervision shall constitute action precluding automatic dissolution of the emergency custody order.

(4) When the court issues a temporary order for the custody of a child, the court may order that, within two (2) weeks, arrangements be made for the child to receive a thorough medical, visual, [~~and~~] dental***, or mental health*** examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. The costs of the examination shall be paid by the cabinet.

(5) The child shall remain in temporary custody with the cabinet for a period of time not to exceed forty-five (45) days from the date of the removal from his home. The court shall conduct the adjudicatory hearing and shall make a final disposition within forty-five (45) days of the removal of the child. The court may extend such time after making written findings establishing the need for the extension and after finding that the extension is in the child's best interest.

Section 2. There is appropriated from the general fund of the State Treasury $2,000,000 in fiscal year 1993 and $2,000,000 in fiscal year 1994 to the Department for Social Services of the Cabinet for Human Resources for the purpose of increasing the reimbursement rate to foster parents to reflect the complexity of caring for troubled children and the level of responsibility foster parents have for these children. To the extent this results in increased federal Title IV-E funds, these funds shall be used to further supplement foster care rates. The cabinet is directed to adjust its reimbursement rates to compensate for this appropriation.

The Committee Amendment No. 1 to **HB 121** is as follows:

Amend printed copy of **HB 121** on page 3, by deleting after "Section 2." lines 5 through 16 and inserting in lieu thereof the following:

"Within the limitations of any available federal funding and subject to any appropriations made thereto, the Department for Social Services of the Cabinet for Human Resources shall increase the reimbursement rate to foster parents to reflect the complexity of caring for troubled children and the level of responsibility foster parents have for these children."

HB 122, AN ACT relating to the family preservation program and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.600 is amended to read as follows:

(1) The secretary for human resources shall conduct a yearly evaluation of family preservation services which shall include the following:

(a) The number of families in which family preservation services would be an available alternative to placement of the child if available;

(b) The number of families receiving family preservation services*,* [~~and~~] the number of children in those families*, **and the number of children in those families who would have been placed in out-of-home care if family preservation services had not been available***;

(c) Among those families receiving family preservation services, the number of children placed outside the home;

(d) The average cost per family of providing family preservation services;

(e) The estimated cost of out-of-home placement which would have been expended on behalf of those children who received family preservation services based on average lengths of stay and average costs of out-of-home placements;

(f) The number of children who remain unified with their families six (6) months and one (1) year after completion of family preservation services; and

(g) An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in delivery of this service, and a plan for the continued development of family preservation services to ensure progress toward statewide availability.

Section 2. There is appropriated from the general fund of the State Treasury $1.3 million for Fiscal Year 1993 and $700,000 for Fiscal Year 1994 to the Department for Social Services of the Cabinet for Human Resources. The funds shall be used to expand the family preservation program in order to provide intensive services intended to prevent the removal of children from their homes when possible. The expansion shall make the family preservation program available in all counties in the Commonwealth by June 30, 1994.

The Committee Amendment No. 1 to **HB 122** is as follows:

Amend printed copy of **HB 122** on page 2, by deleting after "Section 2." lines 12 through 21 in their entirety and inserting in lieu thereof the following:

"Within the limitations of any available federal funding and subject to any appropriations related thereto, the family preservation program shall be expanded in Fiscal Years 1993 and 1994 to make the program available in all counties of the Commonwealth by June 30, 1994."

The Committee on Transportation reported **HB 31, HB 138,** with Committee Amendment attached thereto, **HB 173, HJR 11** and **HCR 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 31, AN ACT relating to motor vehicle operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16)***, except that an instruction permit issued under provisions of KRS 186.450 and 186.470 may be received by a person three (3) months prior to his sixteenth birthday***;

(2) Any person whose operator's license has been suspended, during the period of suspension;

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(4) An habitual drunkard or drug addict;

(5) Any applicant who has previously been adjudged insane or mentally retarded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or mentally retarded with a certificate of thesuperintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property;

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways;

(7) Any person requiring corrective lenses who uses a compound lens system which increases the power of the lenses while restricting the field of vision;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths; or

(12) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the cabinet a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the State Treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

HB 138, AN ACT relating to trailer registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.675 is amended to read as follows:

(1) The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (1) shall be four dollars and fifty cents ($4.50). The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (3) through (13) shall be nineteen dollars and fifty cents ($19.50). The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of boats, luggage, personal effects, farm products, farm supplies or farm equipment. The registration fee for mobile homes and recreational vehicles shall be nine dollars and fifty cents ($9.50) except the registration fee for camping trailers, travel trailers, and truck campers shall be four dollars and fifty cents ($4.50). The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of one dollar ($1.00).

(2) Beginning April 1, ***1993*** [~~1983~~], at the request of the ***owner*** [~~carrier~~], trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050(3) through (13) may be registered for a five (5) year period ***to expire when the trailer or semitrailer is sold or when it is otherwise permanently removed from service by the owner***. The registration fee for the period shall be ninety-seven dollars and

fifty cents ($97.50). [~~The department shall prorate the fee as provided in this subsection for trailers and semitrailers which request a five (5) year registration after the registration period has begun.~~] The clerk shall issue the registration plate furnished by the cabinet and shall be paid for this service the sum of two dollars and fifty cents ($2.50).

Section 2. This Act shall become effective April 1, 1993.

The Committee Amendment No. 1 to **HB 138** is as follows:

Amend printed copy of **HB 138** on page 2, line 2, after the word “be” and before the word “registered” insert the word “***permanently***”; and

On page 2, line 2, after the word “registered” insert the following new language “***, except the registration shall***”; and

On page 2, line 2, before the word “for” insert an opening bracket and strike through the words “for a five’” and

On page 2, line 3, strike through the words “(5) year period” and insert a closing bracket after the word “period” and delete the word “***to***”.

HB 173, AN ACT relating to driving history records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 187.310 is amended to read as follows:

(1) The cabinet shall, upon ***the*** request ***of a driver or by the issuance of an order of a court of competent jurisdiction***, furnish ***the driver or individual designated by the court order with*** [~~any person~~] a certified abstract of the operating record of ***the driver*** [~~any person~~] subject to the provisions of KRS 187.290 to 187.620, which abstract shall also fully designate the motor vehicles, if any, registered in the name of ***the driver*** [~~such person,~~] and if there shall be no record of any conviction of ***the driver*** [~~such person~~] of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by ***the driver*** [~~such person~~], the department shall so certify. The certified abstract shall not include information concerning any violation of the law, injury, or damage which occurred earlier than three years prior to the request. ***The*** [~~Such~~] abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. The certified abstract shall not include accident reports filed with the department of state police under KRS 189.635 and the cabinet shall not furnish to any person the accident report of a driver other than himself***, except upon order of a court of competent jurisdiction***. This section shall in no way preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual.

(2) Nothing in this section shall be construed to prohibit the Transportation Cabinet from releasing the commercial driving history record of any person subject to the provisions of KRS 281A.100.

HJR 11, A JOINT RESOLUTION mandating the Department of Highways to develop a formal policy on local participation in the funding of highway projects.

WHEREAS, highway projects frequently are completed ahead of the state construction schedule because an affected local government or private concern has assisted with funding of the project; and

WHEREAS, highway and bridge projects have been cancelled in areas where a local government or private investors could not provide the necessary matching funds; and

WHEREAS, the lack of a formal policy guaranteeing all areas of the Commonwealth equal access to state highway dollars penalizes the communities and local governments with limited financial resources; and

WHEREAS, good roads have a major impact on the economic development and prosperity of our cities and counties; and

WHEREAS, the lack of a formal policy on matching funds continues to increase the disparities between prosperous communities and struggling communities;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Highways shall develop a formal policy guaranteeing all areas of the Commonwealth equal access to state highway dollars when local matching dollars are involved.

Section 2. That the Department of Highways shall use the per capita income, unemployment rate, and population of a city or county in a formula that ensures equal access to state matching dollars by all communities.

HCR 13, A CONCURRENT RESOLUTION urging the executive and legislative branches to work together to secure funding for an Amtrak line for Kentucky.

WHEREAS, the development of alternative sources for the transportation of people and goods is becoming vitally important in both Kentucky and the nation; and

WHEREAS, with its numerous existing railroad facilities, Kentucky could take advantage of the movement in the eastern United States to develop rapid rail transportation; and

WHEREAS, Amtrak has proposed plans for a rapid rail system extending from Chicago to New Orleans, which could be routed through Kentucky; and

WHEREAS, a route of this nature could enhance Kentucky's central location in the eastern United States and greatly enhance tourism and transportation in general;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the executive and legislative branches of government be urged to work together to secure funding for an Amtrak rapid rail line for Kentucky.

Section 2. That copies of this Resolution be sent to the Governor, the secretary of the Transportation Cabinet, the secretary of the Economic Development Cabinet, the secretary of the Tourism Cabinet, the President Pro Tem of the Senate, and the Speaker of the House of Representatives.

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 2, Representatives Farrow, Ford, Hourigan, Lyne, Nelson, Sanders; **HB 3**, Representatives Casebier, Donnermeyer, Ford, Strong, Todd; **HB 4**, Representatives Ford, Nelson, Sanders; **HB 39**, Representative Ford; **HB 40**, Representatives Casebier, Long, B. Smith, Stokes; **HB 47**, Representative Stokes; **HB 50**, Representative Ackerson; **HB 68**, Representative Ford; **HB 78**, Representative Stokes; **HB 81**, Representative Stokes; **HB 88**, Representatives P. Clark, Gray, Hatcher, Heleringer, Northup, Stokes, Toby; **HB 92**, Representative Stokes; **HB 99**, Representatives Bryant, Noland; **HB 124**, Representatives Bryant, Noland; **HB 156**, Representative Ford; **HB 191**, Representatives Bowling, Bryant, Ford, Noland, Sanders; **HB 202**, Representative Bryant; **HB 221**, Representative Ford; **HB 229**, Representative Allen; **HB 231**, Representative Allen; **HB 239**, Representative Ford; **HB 244**, Representative Stokes; **HB 310**, Representatives Turner, Zimmerman; **HB 311**, Representatives Burch, Butler, Gray, Hatcher, Heleringer, Lile, Riggs, Toby, Ward, Yates; **HR 48**, Representative Northup.

Announcements

The following meetings were announced:

Western Kentucky Caucus, Room 327, 3:00 p.m., January 23, 1992.

Economic Development upon adjournment, Room 129, January 23, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, January 24, 1992.

On the roll call the vote was yeas 92—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark,

P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lile, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 1—LeMaster.

The motion to adjourn was adopted.

FRIDAY, JANUARY 24, 1992

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives R. Smith, Gregory and Deskins.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 23, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 20**, **SB 64** and **HCR 24**. (Time: 9:03 a.m.)

Introduction of Bills and Resolutions

HB 338, by Representatives Napier, Yates, Cyrus, Zimmerman, Bruce, Barrows, Moberly, Crupper, Turner, Todd, Gee, Noland, Sanders, Gedling, Strong, Bronger, Kerr, T. Smith, Maggard, Jensen and Lyne: AN ACT relating to improving health and welfare and providing funding therefore.

HB 339, by Representative Callahan: AN ACT relating to delinquent taxes.

HB 340, by Representative Lewis: AN ACT relating to the practice of social work.

HB 341, by Representatives Long and J. Harper: AN ACT relating to the ethics of public servants.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **SB 31, SB 32, SB 34**

Business Organizations and Professions: **HB 330**

Cities: **HB 336, SB 4, SB 12, SB 13**

Counties and Special Districts: **HB 329, HB 331**

Education: **HB 332, SB 18, SB 61, SB 75, SB 95**

Health and Welfare: **HB 335**

Judiciary: **HB 328, HB 334**

State Government: **HB 337**

Transportation: **HB 333, HCR 49**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **HB 44**

Calendar

HB 139, HB 147, HB 156, HB 157, HB 239, HB 258, HB 263, HB 116, HB 120, HB 121, HB 122, HB 31, HB 138, HB 173, HJR 11 and **HCR 13** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 31**, **HB 120**, **HB 138**, **HB 139**, **HB 147**, **HB 157**, **HB 156**, **HB 239**, **HB 258**, **HJR 11** and **HCR 13** have been posted for passage in the Orders of the Day for January 27, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

State Government: **HB 14**

Appropriations and Revenue: **HB 263**

Orders of the Day

Representative Stumbo moved that the following Bill be recommitted:

Appropriations and Revenue: **HB 7**

HB 2, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 2**. Agreed.

Representative B. Smith moved that **HB 2**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See January 24, 1992 roll call on **HB 2** - Appendix.)

HB 2, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 2**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 234 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 234** be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See January 24, 1992 roll call on **HB 234** - Appendix.)

HB 234 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 234** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 265 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 265** be passed.

On the roll call the vote was: Yeas 71, Nays 9. (See January 24, 1992 roll call on **HB 265** - Appendix.)

HB 265 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 265** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 50**. Agreed.

Representative Sheehan moved that **HB 50**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 16. (See January 24, 1992 roll call on **HB 50** - Appendix.)

HB 50, as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 50**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 311** be reassigned to the Committee on Cities and that **HB 272** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 342, by Representative Brown: AN ACT relating to the transportation of waste.

HB 343, by Representatives Walker and Callahan: AN ACT relating to local industrial development authorities.

HB 344, by Representatives Barrows and Hancock: AN ACT relating to intergovernmental cooperation between local governments.

HB 345, by Representative Long: AN ACT relating to the certification of marriage and family therapists.

HR 50, by Representatives Barrows, Moberly, Noe and Hancock: A RESOLUTION honoring Kenton Garland Downey.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 14**

Education: **HB 77, HB 303, HB 280, HB 171, HB 266, HB 268, HB 284, HB 285, SB 95**

Economic Development: **HB 205**

Transportation: **SB 72**

Health and Welfare: **HB 164**

Cities: **HB 271, HB 257, HB 336**

Counties and Special Districts: **HB 300, HB 209**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Health and Welfare: **HB 275**

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 120**, by Representative Williams:

Amend printed copy of **HB 120/HCS** on page 3 line 11, after the word "***placement***" by inserting the following: "***, direct social worker services, operating expenses, training, and administrative costs***".

Floor Amendment No. 1 to **HB 179**, by Representative Johnson:

Amend printed copy of **HB 179** on page 3, line 21, to delete "***, or which requires medical***" and to insert in lieu thereof a period "."; and

on page 3, lines 22 through 24, to delete the same.

Announcements

Representative Stumbo announced that the House would convene at 10:00 a.m., on January 29, 1992.

The following meeting was announced:

State Government, January 29, 1992 upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, January 27, 1992.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Keith, Kerr, Lear, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stumbo, Toby, Todd, Turner, Walker, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Casebier, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, JANUARY 27, 1992

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of January 24, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 31**, by Representative Ballard:

Amend printed copy of **HB 31** on page 3, after line 9, by inserting the following:

Section 2. Whereas a longer time period for adolescents obtaining instruction permits would enable them to prepare more fully for the road test and makes for better drivers on the roads of the Commonwealth, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Floor Amendment No. 2 to **HB 31**, by Representative Ballard:

Amend printed copy of **HB 31** on page 3, line 9, after the word "reinstated" by inserting a semicolon ";" and the following language:

(13) If a person has been issued an instruction permit prior to his sixteenth birthday pursuant to subsection (1) of this section, he shall be eligible to test for his operator's license in the following manner:

(a) If the instruction permit was issued at least thirty (30) days prior to the date of the person's sixteenth birthday, the person may test for his operator's license on the date of his sixteenth birthday; or

(b) If the instruction permit was issued less than thirty (30) days prior to the person's sixteenth birthday, the person may test for his operator's license as soon as he has had his instruction permit for thirty (30) days.

Floor Title Amendment to **HB 31**, by Representative Ballard:

Amend printed copy of **HB 31** by amending the title to read as follows:

After "vehicles" by inserting "and declaring an emergency".

Floor Amendment No. 3 to **HB 25**, by Representative Callahan:

Amend printed copy of **HB 25** beginning on page 1, line 1, by deleting "Section 1" on page 1, 2 and 3 in its entirety and inserting in lieu thereof, "Section 1. KRS 318.015 is amended to read as follows:

(1) This chapter applies and shall be in full force and effect in all counties of the Commonwealth.

(2) The state plumbing code promulgated by the department under the provisions of this chapter applies and shall be in full force and effect for all public buildings regardless of location in the Commonwealth.

(3) This chapter shall not apply to farmsteads***,***[.]***except that after the effective date of this Act, this chapter shall apply to all new plumbing installations serving single family dwellings located on farmsteads and connected to a public water supply, but shall not apply to any other farm related structures within the boundaries of the farmstead.***

(4) Nothing in this chapter shall deny a farmstead owner the right to obtain a permit for or access to a public water supply.

(5) Nothing in this Act shall prevent a farmstead owner from performing the construction, installation, or alteration necessary to obtain a water supply.

Senate Message

Announcing passage of **SB 6**, **SB 71** and **HJR 46**. (Time: 4:02 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HCR 24** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:03 p.m.)

HCR 24 was delivered to the Senate and signed by the President. Delivered to the Governor on January 27, 1992 at 4:20 p.m.

Introduction of Bills and Resolutions

HB 346, by Representative Geveden: AN ACT relating to elections.

HB 347, by Representative Burch: AN ACT relating to infertility.

HB 348, by Representative Riggs: AN ACT relating to peace officers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 338**

Business Organizations and Professions: **HB 340**, **HB 345**

Cities: **HB 339**

Economic Development: **HB 343**

Education: **SB 20**

Natural Resources and Environmental Protection: **HB 342**

State Government: **HB 341**, **HB 344**, **SB 64**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **SB 64**

Cities: **HB 311**

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 88**, **HB 182** and **HB 116** have been posted for passage in the Orders of the Day for January 28, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 121**, **HB 122**, **HB 173**

Orders of the Day

HB 120, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 120**. Agreed.

Representative Burch moved that **HB 120**, by way of Committee Substitute, be passed.

Representative Williams moved the adoption of Floor Amendment No. 1 to **HB 120**. Agreed.

On the roll call on the passage of **HB 120**, by way of Committee Substitute as amended, the vote was: Yeas 96, Nays 0. (See January 27, 1992 roll call on **HB 120** - Appendix.)

HB 120, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 120**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 138, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to **HB 138**. Agreed.

Representative Hancock moved that **HB 138**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 27, 1992 roll call on **HB 138** - Appendix.)

HB 138, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 138**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 139, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 1 to **HB 139**. Agreed.

Representative Hancock moved that **HB 139**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 27, 1992 roll call on **HB 139** - Appendix.)

HB 139, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 139**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 147**. Agreed.

Representative Long moved that **HB 147**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See January 27, 1992 roll call on **HB 147** - Appendix.)

HB 147, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 147**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 156, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 156**. Agreed.

Representative Long moved that **HB 156**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See January 27, 1992 roll call on **HB 156** - Appendix.)

HB 156, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 156**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 157**. Agreed.

Representative Long moved that **HB 157**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See January 27, 1992 roll call on **HB 157** - Appendix.)

HB 157, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 157**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 311**. Agreed.

Representative Stumbo moved that **HB 164** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 349, by Representatives Curd and Castleman: AN ACT relating to school district budgets.

HB 350, by Representatives Crupper, Farrow, Gee, Coleman and Hourigan: AN ACT relating to individual income tax.

HR 51, by Representative Crupper: A RESOLUTION honoring the students and teachers of Grant County Middle School.

HCR 52, by Representatives Coleman, Crupper, Arnold and Rapier: A CONCURRENT RESOLUTION directing the Small Business Task Force to study the various taxes and fees affecting businesses in Kentucky.

HR 53, by Representatives Farrow and Crupper: A RESOLUTION honoring Ben Clifford of Harrison County for winning the American Farm Bureau Federation National Discussion meet.

HR 54, by Representative Crupper: A RESOLUTION adjourning in loving memory and honor of Carl W. Webster, educator.

Motions, Petitions and Communications (Continued)

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from “yea” to “nay” on **HB 265**. Agreed.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 53**:

HR 53, A RESOLUTION honoring Ben Clifford of Harrison County for winning the American Farm Bureau Federation National Discussion meet.

WHEREAS, at the American Farm Bureau convention in Kansas City, twenty-seven year old Ben Clifford became the national winner of the Farm Bureau National Discussion Meet; and

WHEREAS, it all started when Ben Clifford won the Kentucky Farm Bureau Federation Discussion Meet and thereby qualified for the National Meet; and

WHEREAS, Ben Clifford, a Harrison County farmer, had to discuss current farm issues in a panel setting with other contestants and to respond to different opinions on the issues; and

WHEREAS, Ben Clifford had praise for his competition and enjoyed the experience of sharing perspectives with other young farmers from other states; and

WHEREAS, as top contestant, Ben Clifford won a trip to Europe that will no doubt broaden his knowledge of farm issues even further;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby honor and congratulate Ben Clifford for his achievement in winning the Farm Bureau National Discussion Meet.

Section 2. That the House of Representatives is duly proud of the example set by Ben Clifford and commends him to all the citizens of the Commonwealth.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ben Clifford, Route 2, Cynthiana, Kentucky 41031.

HR 53 was adopted by voice vote.

Representative Barrows moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 50**:

HR 50, A RESOLUTION honoring Kenton Garland Downey.

WHEREAS, Kenton G. Downey has served diligently the interests of the Kentucky General Assembly; and

WHEREAS, Kenton G. Downey is now hospitalized with acute nurses and enriched physicians; and

WHEREAS, during this period of Kenton G. Downey's internal malaise the sale of spirits in Kentucky has declined, attendance at roadhouses has dwindled, the life expectancy of mashies and niblicks has lengthened, the rhetoric of political conversation is more germaine, the smoke-filled rooms are less polluted, and games of chance more honest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does express its concern and well wishes for the other gentleman from Woodford.

Section 2. That when the House of Representatives adjourns this day it does so in honor of Kenton Garland Downey.

HR 50 was adopted by voice vote.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under the previous rules suspension:

HB 2, Representatives Bruce, Castleman; **HB 31**, Representative Bruce; **HB 35**, Representative Bryant; **HB 147**, Representatives Ackerson, Lile, Todd; **HB 156**, Representatives Ackerson, Lile, Todd; **HB 157**, Representatives Ackerson, Strong, Todd; **HB 238**, Representative Noland; **HB 239**, Representative Todd; **HB 258**, Representative Todd; **HB 263**, Representatives Bryant, Noland; **HB 340**, Representative Wayne; **HCR 13**, Representatives Richardson, Strong.

Announcements

The following meetings were announced:

Cities, 9:00 a.m., January 28, 1992 in Room 131.

Appropriations and Revenue, 10:00 a.m., January 28, 1992 in Room 129.

Banking and Insurance, 10:00 a.m., January 28, 1992 in Room 131.

Agriculture and Small Business, 9:00 a.m., January 28, 1992 in Room 129.

Judiciary, 12:30, January 28, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, January 28, 1992.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bowling, Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, JANUARY 28, 1992

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Bill Whitsel, Robards/Dixie Methodist Church, Henderson County.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Jensen.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 27, 1992 be dispensed with and the same approved. Agreed.

Representative Crupper moved that the rules be suspended to grant floor privileges to the Grant County Middle School students and to act upon a Resolution. Agreed.

Representative Crupper moved the adoption of the following **HR 51**:

HR 51, A RESOLUTION honoring the students and teachers of Grant County Middle School.

WHEREAS, the students of Grant County Middle School are now national celebrities thanks to being selected to participate in the Diet Pepsi, "You've Got the Right One, Baby, Uh-Huh" campaign; and

WHEREAS, dressed in red, white and blue T-shirts, about 200 students from Grant County Middle School formed the shape of a Diet Pepsi bottle cap for the winning video; and

WHEREAS, the commercial first aired on October 6, 1991 on the "Ray Charles 50 Years in Music" special, and continues to air at various times; and

WHEREAS, Shelia Scott, a seventh grade math teacher, and former teacher Tim Hart, who taught eighth grade English, entered their students in the contest; and

WHEREAS, the $10,000 award received by the school has been used to purchase Compton's Encyclopedia for the library computer and an outdoor marquee for the school building; and

WHEREAS, Grant County Middle School will also be featured in an upcoming KET education special on "Middle School Teaming: The Right Approach";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed institution does hereby congratulate the students, teachers and administrators of Grant County Middle School for their initiative, teamwork, and dedication to excellence.

Section 2. That when the House of Representatives adjourns this day, it does so in honor of Grant County Middle School.

Section 3. That the Clerk of the House of Representatives is directed to transmit four copies of this Resolution to Joyce Doyle, Principal, Grant County Middle School, Dry Ridge, Kentucky 41035.

HR 51 was adopted by voice vote.

Representative Crupper moved that a call of the roll be taken to show co-sponsors of **HR 51**.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richardson, Ridley, Riggs, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Report on Enrolled Bills

The Committee on Enrollment reported that **HJR 46** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:10 p.m.)

HJR 46 was delivered to the Senate and signed by the President. Delivered to the Governor on January 28, 1992 at 2:19 p.m.

Introduction of Bills and Resolutions

HB 351, by Representative Johnson: AN ACT relating to descent and distribution.

HB 352, by Representative Northup: AN ACT relating to tobacco.

HB 353, by Representatives Cyrus, Adkins and Farley: AN ACT relating to sales and use tax.

HB 354, by Representative L. Clark: AN ACT relating to fire protection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HCR 52**

Appropriations and Revenue: **HB 350**

Banking and Insurance: **HB 347**

Business Organizations and Professions: **SB 71**

Education: **HB 349**

Elections and Constitutional Amendments: **HB 346**

Judiciary: **HB 348, SB 6**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 164**

Transportation: **HB 169, HB 174, HB 184, HB 207, HB 216**

Appropriations and Revenue: **SB 32, SB 34**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 23**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to overdimension permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by administrative regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles, and vehicles transporting microwave

satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width, or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes, and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit if the house trainer is fourteen (14) feet wide or less; forty dollars ($40) for each single trip house trailer permit if the house trailer exceeds fourteen (14) feet in width; a fee of eighty dollars ($80) for each annual house trailer, farm equipment, boat transporter, or microwave antennae transporter permit; a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes, and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedence of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the Department of Vehicle Regulation, Division of Motor Carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit said trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) ***The department shall, for a fee not to exceed eighty dollars ($80), issue an annual permit for the operation of a motor vehicle or vehicle described in subsection (1) of this section when the motor vehicle or vehicle exceeds the dimension limits for length or width prescribed by KRS 189.221 or 189.222, provided:***

(a) That the motor vehicle is engaged in the transporting of farm equipment from the dealership to the farm or from the farm to the dealership; and

(b) That the width of the motor vehicle or vehicle does not exceed sixteen (16) feet, including any part of the body or load.

(5) Upon the issuance of an annual permit for the operation of motor vehicle or vehicle described in subsection (4) of this section, the department shall provide each applicant with a publication, free of charge, which contains a description of any administrative regulations which are applicable to the operation of the motor vehicle or vehicle including escort vehicles, safety markings, and any other applicable restrictions. The department shall update the publication within thirty (30) days of any change in an administrative regulation that pertains to the operation of a motor vehicle or vehicle described in subsection (4) of this section.

(6) (a) Annual overlength permits may be issued to any utility pole or pipe transporter under the following conditions:

1. An annual overlength permit may be issued for a towing vehicle and trailer combination which does not exceed one hundred twenty-five (125) feet in overall length. Restrictions may be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence of traffic flow could be

created. An annual permit to transport poles or pipe which are fifty-five (55) feet or less in length shall cost one hundred dollars ($100). An annual permit to transport poles or pipe which are more than fifty-five (55) feet in length shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips to be made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedence of the flow of traffic could be created.

2. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on a specially designed pole rack mounted on the body of the truck if the pole or pipe length exceeds forty-five (45) feet. Restrictions may also be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence to traffic flow could be created. The cost of this overlength permit shall be one hundred dollars ($100).

3. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on specially designed pole racks mounted on the body of the truck if the pole or pipe length exceeds fifty-five (55) feet, but does not exceed ninety-five (95) feet. The permit shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedance of the flow of traffic could be created.

4. More than one (1) type of permit authorized in subparagraphs (1) and (2) of this paragraph may be issued for the same vehicle. The maximum cost of the multiple-use annual permit shall be three hundred fifty dollars ($350).

(b) The secretary of transportation shall, by administrative regulation, prescribe additional safety requirements for movements of these vehicles. Regulations promulgated for this subsection shall not restrict the ability of a permit holder to respond to an emergency due to an electrical or gas outage.

(7)[~~(5)~~] Each motor carrier used in transporting prefabricated wood trusses, used in residential and commercial construction, which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit. The Department of Vehicle Regulation shall assess the applicant a fee of five hundred dollars ($500) for each annual permit. A copy of the permit shall be carried at all times in the vehicle and shall be shown to a peace officer upon demand. The department may restrict the use of the permits to specified routes or exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or impedence of the flow of traffic could result. The department shall adopt administrative regulations setting forth the safety requirements which shall be met prior to the movement of any vehicle under the provisions of this permit including setting the dimensions at which the transporter shall contact the department for specific, individual authority for the movement under the annual permit.

(8)[~~(6)~~] Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection (1) of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, no fee shall be assessed by the department for the issuance of the permit.

(9)[~~(7)~~] No person shall operate any motor vehicle, mobile home, or recreational vehicle in violation of the terms of the permit.

The Committee Amendment No. 1 to **HB 23** is as follows:

Amend printed copy of **HB 23**, on page 4, line 9, by deleting "***eighty dollars ($80)***" and inserting in lieu thereof the following: "***one hundred fifty dollars ($150)***".

The Committee on Banking and Insurance reported **HB 204** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 204, AN ACT relating to general lines insurance agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-030 is amended to read as follows:

(1) A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance ***or group self-insurance***:

(a) Property insurance;

(b) Casualty insurance;

(c) Surety insurance;

(d) Marine and transportation insurance;

(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance; and

(f) Mortgage guaranty insurance.

(2) A "life" agent is an agent who transacts life insurance or annuity business. An agent may be appointed for life insurance only, if the insurer is a life and health insurer.

(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.

(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.

The Committee on Business Organizations and Professions reported **HB 94**, **HB 159**, with Committee Substitute attached thereto, **HB 237**, with Committee Substitute attached thereto, and **HB 269** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 94, AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.450 is amended to read as follows:

(1) The barber board shall issue a license to practice barbering to any person who:

(a) Is at least eighteen (18) years of age;

(b) Is of good moral character and temperate habit;

(c) Has acted as a licensed apprentice for at least ***twelve (12)*** [~~eighteen (18)~~] months under the immediate supervision of a licensed barber;

(d) Has satisfactorily passed the examination prescribed by the barber board;

(e) Has paid a fee of ***thirty dollars ($30)*** [~~twenty dollars ($20.00)~~].

(f) The board may reciprocate with other states and issue a barber license upon payment of a fee of fifty dollars ($50.00) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. The board may require an applicant under this section to pass an examination to establish equivalency.

(2) The barber board shall issue a license to act as apprentice to a barber to any person who:

(a) Is at least sixteen and one-half (16 1/2) years of age;

(b) Is of good moral character and temperate habit;

(c) Has at least four (4) years of high school education;

(d) Has graduated from an accredited or licensed school of barbering;

(e) Has satisfactorily passed the examination prescribed by the barber board; and

(f) Has paid a fee of ***thirty dollars ($30)*** [~~twenty dollars ($20.00)~~].

(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter~~,~~ upon application of ***the*** [~~such~~] barber accompanied by a fee of ***thirty dollars ($30).*** [~~twenty dollars ($20.00) provided that~~] The barber board shall refuse to issue ***the*** [~~such a~~] license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.

(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:

(a) Applies [~~therefor~~] upon forms furnished by the board;

(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;

(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;

(d) Has furnished evidence of having at least twenty-four (24) months experience teaching in a barber school including administrative experience in such school;

(e) Pays a fee of one hundred ***and fifty*** dollars ***($150)***[~~($100)~~].

(5) The barber board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has been a licensed and practicing barber for at least thirty-six (36) months;

(d) Has satisfactorily passed the examination prescribed by the board; and

(e) Has paid a fee of ***fifty dollars ($50)*** [~~twenty-five dollars ($25.00)~~].

(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:

(a) Barber — ***fifty dollars ($50)*** [~~$20.00~~];

(b) Apprentice to a barber — ***fifty dollars ($50)*** [~~$20.00~~];

(c) Teaching barbering — ***fifty dollars ($50)*** [~~$25.00~~].

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber — ***thirty dollars ($30)*** [~~$20.00~~];

(b) Apprentice to barber — ***thirty dollars ($30)*** [~~$20.00~~];

(c) Teacher of barbering — ***thirty dollars ($30)*** [~~$20.00~~];

(d) Barber shop — ***thirty dollars ($30)*** [~~$20.00~~];

(e) Barber school — ***one hundred dollars ($100)*** [~~$75.00~~].

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, where the period of expiration does not exceed five (5) years, shall be as follows:

(a) Barber — ***fifteen dollars*** ($15) plus lapse fees;

(b) Apprentice — ***fifteen dollars*** ($15) plus lapse fees;

(c) Barber shop — ***thirty dollars ($30)*** [~~$20.00~~];

(d) Barber school — ***one hundred dollars ($100)*** [~~$75.00~~];

(e) Teacher of barbering — ***fifteen dollars*** ($15) plus lapse fees.

HB 159, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed as requiring a permit for the operation of warehouses containing alcoholic beverages as defined in KRS 241.010 or as authorizing the inspection of such warehouses by the cabinet.

The Committee Substitute to **HB 159** is as follows:

HB 159, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed as requiring a permit for the operation of warehouses containing alcoholic beverages as defined in KRS 241.010 or as authorizing the inspection of such warehouses by the cabinet.

Section 2. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second or third class, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.710 and 95.740 to 95.787.

(3) Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, ***or*** third [~~or fourth~~] class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(4) Notwithstanding subsection (3) of this section, the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if*:*

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, if such premises are licensed to sell malt beverages at retail and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

(5) No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

HB 237, AN ACT relating to the sale of distilled spirits and wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four (24) hours of a Sunday, ***except as provided in KRS 243.050 and this section,*** or during the hours the polls are open on any regular, primary, school, or special election day. [~~, provided, that~~] If a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and ***the*** [~~said~~] department is kept locked during the times mentioned above, he shall be deemed to have complied with this section. ***However*** [~~; except that~~] the city council, board of aldermen, or other municipal legislative body of cities of the first, second, third, or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries***; and*** [~~, and except further that~~] the fiscal court of each county in which cities of the first, second, third, or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of ***the*** [~~such~~] cities, except any portion in which distilled spirits and wine are prohibited from being sold. [~~Provided, however, that~~] No distilled spirits or wine ***shall*** [~~may~~] be sold in any portion of the counties containing cities of the first, second, third, or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and [~~subsections (2), (4), and (6) of~~] this section. [~~, and that~~] No distilled spirits or wine may be sold on any election day while the polls are still open. [~~; and provided, also, that~~] All stocks of distilled spirits and wine ***shall*** [~~must~~] be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class ***or in any city located therein*** in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of ***the area concerned*** [~~county~~])?"

(3) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in [~~subsections (2) and (4) of~~] this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of ***the*** [~~such~~] city or fiscal court, of ***the*** [~~such~~] areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned[~~, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food.~~

~~(5) (a) Any hotel, motel, restaurant operation, convention center, or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.~~

~~(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves~~].

(5)[~~(6)~~] Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185(1), may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by [~~subsections (2) and (4) of~~] this section. ***The*** [~~Such~~] special licenses shall only be issued to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

The Committee Substitute to **HB 237** is as follows:

HB 237, AN ACT relating to the sale of distilled spirits and wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four (24) hours of a Sunday, ***except as provided in KRS 243.050 and this section,*** or during the hours the polls are open on any regular, primary, school, or special election day. [~~, provided, that~~] If a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and ***the*** [~~said~~] department is kept locked during the times mentioned above, he shall be deemed to have complied with this section. ***However*** [~~; except that~~] the city council, board of aldermen, or other municipal legislative body of cities of the first, second, third, or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by [~~ordinance~~] duly enacted ***ordinance,*** to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries***; and*** [~~, and except further that~~] the fiscal court of each county in which cities of the first, second, third, or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of ***the*** [~~such~~] cities, except any portion in which distilled spirits and wine are prohibited from being sold. [~~Provided, however, that~~] No distilled spirits or wine ***shall*** [~~may~~] be sold in any portion of the counties containing cities of the first, second, third, or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and subsections (2), (4), and ***(5)***[~~(6)~~] of this section. [~~, and that~~] No distilled spirits or wine may be sold on any election day while the polls are still open. [~~; and provided, also, that~~] All stocks of distilled spirits and wine ***shall*** [~~must~~] be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class ***or in any city located therein*** in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of ***the area concerned*** [~~county~~])?"

(3) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first***,*** [~~or~~] second***, or third*** class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of ***the*** [~~such~~] city or fiscal court, of ***the*** [~~such~~] areas ***may***, [~~shall have the power~~] by duly enacted ordinance, [~~to~~] permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least ***twenty-five percent (25%)*** [~~fifty percent (50%)~~] or more of their gross annual income from their dining facilities by the sale of food.

(5) [~~(a) Any hotel, motel, restaurant operation, convention center, or commercial airport which sells liquor on Sunday shall pay each of its employees wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)6. notwithstanding.~~

~~(b) No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.~~

~~(6)~~] Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink as provided in KRS 242.185[~~(1)~~], may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by subsections (2) and (4) of this section. ***The*** [~~Such~~] special licenses shall only be issued to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink as provided in KRS 242.185(3). Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

HB 269, AN ACT relating to continuing education requirements for professional engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.290 is amended to read as follows:

(1) The board shall:

(a) Administer this chapter;

(b) Adopt an official seal; and

(c) Provide suitable office quarters at its own expense.

(2) The board shall:

(a) Adopt and amend all bylaws and rules of procedure, consistent with the Constitution and laws of the state, and reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it;

(b) Employ an executive director and any clerk or other assistants necessary for the proper performance of its work;

(c) Employ any legal assistants that it considers necessary;

(d) Make expenditures for any purpose that it considers reasonably necessary for the proper performance of its duties, including the expenses of the board's delegates to national conventions of and membership dues to the national council of engineering examiners or other affiliated national boards or societies;

(e) Adopt and promulgate a code of professional practice and conduct, which shall be binding upon persons registered under this chapter, and which may be amended from time to time[~~, and shall be made known to all registrants and applicants~~]. The code of professional practice and conduct shall ***be made known to all registrants and applicants and shall*** include, but not be limited to, the following objectives:

1. The protection of the public health, safety, and welfare;

2. The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

3. The avoidance of conflicts of interest;

4. The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

5. The prohibition of association with any person engaging in illegal or dishonest activities; and

6. The limitation of professional service to the area of competence of the registrant.

(f) Adopt appropriate standards of practice; [~~and~~]

(g) Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, firm, association, corporation or combination thereof in violation of KRS 322.020***; and***

(h) Adopt a program for continuing education for its individual land surveyor licensees not later that July 1, 1992. Thereafter, no individual land surveyor licensee shall be permitted to renew his license, unless

the minimum annual continuing education requirements are met, in addition to any other requirement for renewal. The program for continuing education shall not include testing or examination of the licensee in any manner.

The Committee on Cities reported **HB 257, HB 271, HB 287** and **HB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 257, AN ACT relating to interlocal cooperative agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, ***that*** [~~said~~] performance may be offered in satisfaction of the obligation or responsibility.

(2) ***Except as provided in subsection (3) of this section,*** every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state. The Attorney General shall approve any agreement submitted to him under this subsection unless he finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. In the event that the agreement does not meet ***these*** [~~such~~] conditions, the Attorney General shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) The submission of an interlocal cooperative agreement to the Attorney General as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

HB 271, AN ACT relating to city citation and safety officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of any city may authorize the employment of safety officers as needed. Safety officers shall have duties as prescribed by ordinance, which may include, but not be limited to:

(a) Issuance of citations for violation of motor vehicle offenses as provided for in KRS Chapters 186 and 189. Safety officers shall not have the authority to issue citations for moving violations.

(b) Issuance of citations for violation of any motor vehicle or traffic safety ordinance enacted by the city.

(c) Control and direction of traffic on public thoroughfares.

(d) Removal of vehicles in violation of state or local laws.

(2) The ordinance prescribing the duties of safety officers shall set out in particular the city ordinances and the sections of KRS Chapters 186 and 189 for which citation authority will exist.

(3) A safety officer may issue a citation for a misdemeanor or a violation committed in his presence. The procedures for citations issued by safety officers shall be as provided in KRS 431.015.

(4) Safety officers appointed by authority of this section shall have only the limited powers as provided by this section and shall not have the powers of peace offices to make arrests or carry deadly weapons.

(5) Safety officers shall successfully complete one hundred twenty (120) hours of appropriate training certified by the Kentucky Law Enforcement Council prior to being appointed as a safety officer.

(6) This section shall not be a limitation on the power of a safety officer to make an arrest as a private person as provided in KRS 431.005.

SECTION 2. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of any city may authorize the employment of citation officers as needed. Citation officers shall have the qualifications prescribed by ordinance. Citation officers shall not have the powers of peace officers to make arrests or carry deadly weapons, but may issue citations as authorized by ordinance upon observation of:

(a) Nonmoving motor vehicle offenses.

(b) Violations of ordinances except for moving motor vehicle offenses and except for offenses which constitute a violation of the Kentucky Penal Code.

(2) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

(3) This section shall not be a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005.

Section 3. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, or any ***citation or safety*** [~~auxiliary police~~] officer appointed pursuant to ***Sections 1 and 2 of this Act*** [~~KRS 95.445~~], elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, or city or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. ***If*** [~~In the event~~] death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, or any ***citation or safety*** [~~auxiliary police~~] officer appointed pursuant to ***Sections 1 and 2 of this Act*** [~~KRS 95.445~~], or firefighter whose death occurs as a direct result of an act in the line of duty shall, receive a lump-sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ten thousand dollars ($10,000) to the surviving children; and

(b) Hold fifteen thousand dollars ($15,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until ***the*** [~~such~~] child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty.

(4) The Justice Cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited, to defining when a police officer has died in line of duty.

(5) The benefits payable under this section ***shall be*** [~~are~~] in addition to any benefits now or hereafter prescribed under any police, sheriff, or firefighter's retirement or benefit fund established by the state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section[~~,~~] shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 4. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice, entitling ***the*** [~~such~~] individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice Cabinet;

(6) "Special law enforcement officer":

(a) Means one (1) whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one (1) whose duties include the prevention, observation or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one (1) whose special duties include the control of the operation, speed and parking of motor vehicles, bicycles and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one (1) whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160[~~, 95.445,~~] or 95.740***, or citation and safety officers authorized by Sections 1 and 2 of this Act***;

3. State park rangers and conservation officers;

4. Officers of the Transportation Cabinet and Division of Water Patrol responsible for law enforcement;

5. Officers of the Corrections Cabinet responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

Section 5. The following KRS section is repealed:

95.445 Auxiliary police.

HB 287, AN ACT relating to waterworks in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.300 is amended to read as follows:

The board of waterworks may borrow money [~~in an amount not to exceed the gross receipts for the current year,~~] for the purpose of meeting any of the obligations of the waterworks corporation and for current expenses of the board. In addition, ***the board may,*** [~~whenever the board deems it expedient to provide for the refunding of any outstanding bonds of the waterworks corporation or the funding of its floating indebtedness, and~~] after the commissioners of the sinking fund have by resolution consented, [~~the board may~~] issue [~~for either or both of those purposes~~] the bonds of the waterworks corporation ***or issue bonds for the refunding of bonds of the waterworks corporation, and these bonds may be issued and may be secured by the revenues of the waterworks corporation; by a mortgage upon the rights, privileges, franchises, and property of the corporation; or by both. The bonds may be issued in denominations, with maturities, bear interest, and be payable, as may be in the best interest of the waterworks corporation as determined by the board with the consent of the commissioners of the sinking fund and as otherwise required by the laws of the Commonwealth. No indebtedness, bonded or otherwise, may be authorized or consented to if, as a result of that borrowing, the waterworks corporation's net aggregate debt service on all outstanding indebtedness in any one year, multiplied by one and three-tenths (1.3), will exceed the corporation's net income, determined in accordance with generally accepted accounting principles, for the fiscal year immediately preceding the borrowing*** [~~not to exceed in amount one million five hundred thousand dollars ($1,500,000), and may secure the bonds by a mortgage upon the rights, privileges, franchises and property of the corporation. The bonds shall be issued in denominations of one thousand dollars ($1,000) each, to mature not exceeding forty (40) years from date, bearing interest at a rate not to exceed four percent (4%) per annum, payable semiannually, the interest to be evidenced by attached coupons. The bonds shall be signed by the president and secretary of the board, and the coupons shall be evidenced by the engraved signature of the secretary. The bonds, when issued, shall be placed with and sold by the commissioners of the sinking fund at a price not less than their face value, and the proceeds shall be applied by the commissioners to the purpose for which the bonds were issued. When any such bonds are issued the board of waterworks shall provide for a sinking fund sufficient to pay the interest and to retire the principal of the bonds at maturity. The sinking fund shall be deposited by the board with the commissioners of the sinking fund of the city to be invested, managed, controlled and applied by the commissioners for the payment of the interest and principal of the bonds. The total bonded debt upon the property outstanding at any time shall not exceed one million five hundred thousand dollars ($1,500,000)~~].

HB 336, AN ACT relating to retirement boards in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.871 is amended to read as follows:

The board shall have, in addition to other duties arising out of KRS 95.852 to 95.884 and 95.991, the following duties:

(1) Establish and maintain an office in the facilities provided by the city for the meetings of the board and the keeping of the books, accounts, and records of the fund; hold regular meetings ***quarterly*** [~~monthly~~], and such special meetings as may be deemed necessary; and keep a full record of all of its proceedings, which shall be open to inspection by the public.

(2) Provide for the installation of a system of accounts and records that will give full effect to the requirements of KRS 95.852 to 95.884 and 95.991; adopt all necessary actuarial tables to be used in the operation of the fund; and provide for the compilation of such statistical and financial data as may be required for actuarial valuations, periodic surveys, and calculations.

(3) Obtain such information from the participating members and the city as shall be necessary for the proper operation of the fund.

(4) Consider and pass upon all applications for annuities, benefits, refunds and other payments, and authorize the expenditure for such purposes, in accordance with the provisions hereof. The board shall have authority to promulgate such rules and regulations, not inconsistent with the provisions of KRS 95.851 to 95.991, necessary for the proper determination of all claims before it.

(5) Accept any gift, grant, or bequest of any money or property of any kind, for the purposes designated by the grantor if such purposes are specified as providing cash benefits to some or all of the members or annuitants of the fund; if no such purposes are designated, the same shall be credited to the account representing income from investments.

(6) Have the accounts of the fund audited as of the end of each fiscal year, by a competent accountant, and submit an annual report to the city as soon as possible following the close of the year, embodying, among other things, a balance sheet showing the financial and actuarial condition of the fund, a statement of income and expenditures for the year, a statement showing changes in the asset, liability, and reserve accounts during the year, a statement of investments owned by the fund, detailed statements of investments acquired and disposed of during the year, and such other financial or statistical data as are necessary for a proper interpretation of the condition of the fund and the results of its operations. The board shall also cause to be published for distribution among the members a synopsis of such report.

Floor Amendments

Floor Amendment No. 1 to **HB 269**, by Representative Yates:

Amend printed copy of **HB 269** on page 3, line 4 after "***licensees***" by deleting the following: "***not later that July 1, 1992. Thereafter,***"; and inserting a period "." after the word "***licensees***"

Floor Title Amendment to the Committee Substitute to **HB 116**, by Representative Burch:

Amend printed copy of HCS for **HB 116** by amending the title to read as follows:

"AN ACT relating to children with an emotional disability or severe emotional disability."

Floor Amendment No. 1 to **HB 215**, by Representative Johnson:

Amend printed copy of **HB 215** on page 1, after line 12, by adding the following:

"***(3) The owner of a liquefied petroleum gas container shall remove or authorize replacement of the container within forty-eight (48) hours of receipt of a request for removal or replacement from the customer.***"

Representative Noland moved that the rules be suspended to allow floor privileges to a former legislator. Agreed.

Orders of the Day

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

HB 31, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of Floor Amendment No. 2 to **HB 31**. Agreed.

Representative Ballard moved that **HB 31**, as amended, be passed.

On the roll call the vote was: Yeas 56, Nays 25. (See January 28, 1992 roll call on **HB 31** - Appendix.)

HB 31, as amended, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 31**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 179, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 179**. Agreed.

Representative Johnson moved that **HB 179**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 28, 1992 roll call on **HB 179** - Appendix.)

HB 179, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 179**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 88 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 88** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 28, 1992 roll call on **HB 88** - Appendix.)

HB 88 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 88** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 239, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 239**. Agreed.

Representative Long moved the adoption of Committee Amendment No. 2 to **HB 239**. Agreed.

Representative Long moved that **HB 239**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See January 28, 1992 roll call on **HB 239** - Appendix.)

HB 239, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 239**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 258**. Agreed.

Representative Long moved that **HB 258**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See January 28, 1992 roll call on **HB 258** - Appendix.)

HB 258, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 258**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 11 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HJR 11** be adopted.

On the roll call the vote was: Yeas 98, Nays 0. (See January 28, 1992 roll call on **HJR 11** - Appendix.)

HJR 11 was adopted.

Representative Hancock moved that the vote by which **HJR 11** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 355, by Representative Hancock: AN ACT proposing an amendment to Section 181 of the Constitution of Kentucky relating to taxation.

HB 356, by Representative Maggard: AN ACT relating to the state lottery.

HB 357, by Representative Jones: AN ACT relating to certified public accountants.

HB 358, by Representatives Jones, Morris, Gray, Hatcher, Cyrus, J. Harper, Altman, Bruce, Bentley, Collins and Bryant: AN ACT relating to purchasing.

HB 359, by Representatives Worthington, Hancock, Northup, Little, Yates and Pritchett: AN ACT relating to the Department of Highways and declaring an emergency.

HB 360, by Representative J. Harper: AN ACT relating to wagering.

HJR 55, by Representative Worthington: A JOINT RESOLUTION directing the creation of a task force to review the registration law relating to professional engineers and land surveyors.

HR 56, by Representative Noe: A RESOLUTION recognizing American Counseling Week and Kentucky Counseling Week.

HR 57, by Representatives K. Harper, Callahan, Sheehan, Donnermeyer, Reinhardt, Williams, Walker and Kerr: A RESOLUTION in loving memory and honor of Ben Bernstein.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 241, HB 41, HB 43**

Banking and Insurance: **HB 97, HB 112, HB 185**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 20**, with Committee Amendments attached thereto, **HB 46** and **HB 132**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to penalties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.990 is amended to read as follows:

(1) If any employer of a lobbyist fails to make the report required by KRS 6.300, or to have the names of his lobbyists registered as required by KRS 6.270, he shall for the first offense be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000)~~] and for the second and each subsequent offense ***shall be guilty of a Class D felony*** [~~not more than five thousand dollars ($5,000)~~], and, if the offender is a corporation, its charter may be forfeited in the discretion of the court.

(2) If any officer of a corporation or association fails to make the report required by KRS 6.300 or to have the names of its lobbyists registered as required by KRS 6.270, he shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000), or confined in the county jail not more than one (1) year~~].

(3) If any lobbyist violates any of the provisions of KRS 6.260 to 6.320, he shall be ***guilty of a Class D felony*** [~~fined not more than five thousand dollars ($5,000) or confined in the penitentiary not more than five (5) years or both~~].

(4) Violation of KRS 6.760(2); KRS 6.775(1), (2), (3) or (4); KRS 6.780(1) or (2); KRS 6.785(1); or KRS 6.795(1) is a Class D felony.

(5) Violation of KRS 6.785(2); KRS 6.790(1) [~~or (2)~~]; or KRS 6.800***(4)***[~~(3)~~] is a Class A misdemeanor.

(6) Violation of KRS 6.780(4) or (5); or KRS 6.790(2) is a Class B misdemeanor.

(7) Violation of KRS 6.795(2), (4), (5) or (7) shall be deemed a violation.

(8) Any person who violates KRS 6.775(5) shall be ***guilty of a Class D felony*** [~~fined not more than one thousand dollars ($1,000) or confined in the penitentiary for not less than one (1) nor more than five (5) years or both~~]. The judgment of conviction shall recite that the offender is disqualified to hold any public office thereafter.

(9) Any person who violates KRS 6.780(2) shall forfeit his office and be disqualified from the right of suffrage for ten (10) years.

(10) Any person who violates KRS 6.800***(3)***[~~(2)~~] shall be subject to disciplinary action by the house of the General Assembly of which he is a member in accordance with Section 39 of the Kentucky Constitution.

(11) Any person who violates KRS 6.775(6), (7) or (8); KRS 6.795(3) or (6); or KRS 6.800(1) shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than six (6) months, nor more than two (2) years, or fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or both~~], and in addition shall be judged to have forfeited any constitutional or statutory office or employment which he may hold.

(12) In addition to the criminal penalties established by this section, disciplinary action against any member of the General Assembly may be administered by the house of the General Assembly of which he is a member in accordance with Section 39 of the Kentucky Constitution.

(13) Any person who maliciously files with the board a false charge of misconduct on the part of any legislator or other person shall be ***guilty of a Class A misdemeanor*** [~~fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both~~].

Section 2. KRS 7.990 is amended to read as follows:

Any person who fraudulently alters the engrossed copy, or enrollment of any bill passed by the General Assembly, with intent to have it approved by the Governor or certified by the Secretary of State, or printed or published by the printer of the statutes, in language different from that in which it was passed by the General Assembly, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one (1) nor more than five (5) years~~].

Section 3. KRS 31A.990 is amended to read as follows:

(1) If any master commissioner or receiver fails to comply with his duties as defined by appropriate court order, he shall be ***guilty of a violation*** [~~fined not less than $100 nor more than $500~~], and, upon conviction, shall be removed from office.

(2) If any master commissioner or receiver knowingly omits or fails to report, as required by court order or Supreme Court rule, a correct statement of the amount required to be reported, or the amount of his office expenses, or knowingly makes or subscribes any false statement concerning the same, he shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary not less than one (1) nor more than five (5) years~~], and the judgment of conviction shall declare the office vacant.

Section 4. KRS 40.990 is amended to read as follows:

(1) Any person who charges or collects or attempts to charge or collect either directly or indirectly, any fee or other compensation for assisting in any manner a person seeking to obtain payment of a veterans' bonus, shall be guilty of a misdemeanor and upon conviction thereof, shall be ***guilty of a Class B misdemeanor*** [~~subject to a fine of not more than five hundred dollars ($500) or imprisonment for a term of not more than six (6) months, or both~~]; but this provision is not intended to prohibit:

(a) Collection by public officers of statutory fees for providing authenticated copies of public records; or

(b) Collection by notaries public of not exceeding fifty cents ($0.50) for administering an oath and giving a certificate thereof; or

(c) The giving of assistance or advice to claimants by any bona fide veteran's organization, civic organization, institution, public or private body, or person, through one or more persons compensated from the funds of such organization, institution, or public or private body or person, if no fee or charge therefor is collected from the asserted claimant.

(2) Whoever makes any false or fraudulent statement of a material fact in any application, affidavit, certificate or document submitted or tendered for the purpose of obtaining payment of a veterans' bonus under this chapter, shall be guilty of a ***Class D*** felony [~~and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned for a term not more than two (2) years, or both~~].

(3) Any persons conspiring to obtain payment of a fraudulent claim for a veterans' bonus, or conspiring to defraud one (1) who receives payment or has a bona fide claim for payment of a veterans' bonus, shall be guilty of a ***Class D*** felony[~~, and upon conviction thereof, shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than two (2) years, or both~~].

Section 5. KRS 40.991 is amended to read as follows:

(1) Any person who charges or collects or attempts to charge or collect either directly or indirectly, any fee or other compensation for assisting in any manner a person seeking to obtain payment of a bonus under KRS 40.410 to 40.560, shall be ***guilty of a Class B misdemeanor*** [~~fined not more than five hundred dollars ($500) or imprisoned in the county jail for a term of not more than six (6) months, or both~~]; but this provision is not intended to prohibit:

(a) Collection by public officers of statutory fees for providing authenticated copies of public records; or

(b) The giving of assistance or advice to claimants by any bona fide veterans' organization, civic organization, institution, public or private body, or person, through one (1) or more persons compensated from the funds of such organization, institution, or public or private body or person, if no fee or charge therefor is collected from the asserted claimant.

(2) Whoever makes any false or fraudulent statement of a material fact in any application, affidavit, certificate or document submitted or tendered for the purpose of obtaining payment of a bonus under KRS 40.410 to 40.560, shall be ***guilty of a Class D felony*** [~~fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for a term of not more than two (2) years, or both~~].

(3) Any person conspiring to obtain payment of a fraudulent claim for a bonus under KRS 40.410 to 40.560, or conspiring to defraud one who receives payment or has a bona fide claim for payment of a bonus, shall be ***guilty of a Class D felony*** [~~fined not more than one thousand dollars ($1,000) or imprisoned in the penitentiary for not more than two (2) years, or both~~].

(4) Any person convicted of any offense denounced in this section shall forfeit his right, if any, to receive any payment authorized by KRS 40.410 to 40.560.

Section 6. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employee of any budget unit who willfully fails or refuses to comply with any of the provisions of KRS 45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313, or who expends any money in violation of any of the provisions of those sections, shall be subject to ***prosecution*** [~~indictment~~] in the Franklin Circuit Court, and upon conviction shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense~~].

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of KRS 45.244, he and his sureties shall be jointly and severally liable therefor.

(3) Any employee of the Division of Purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including but not limited to personal service contracts, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a ***Class C*** felony [~~and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000)~~

~~or by imprisonment in the penitentiary for not less than one (1) year, nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury~~].

(4) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including but not limited to personal service contracts, to any employee of the Division of Purchases or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a ***Class C*** felony [~~and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury~~].

Section 7. KRS 45A.990 is amended to read as follows:

(1) Any violation of KRS 45A.045 shall be ***deemed a Class D felony*** [~~punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not less than one (1) year, nor more than five (5) years, or by both fine and imprisonment in the discretion of the jury~~].

(2) Any person who violates any of the provisions of KRS 45A.325 shall be guilty of a ***Class D*** felony [~~and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or be imprisoned not less than one (1) year nor more than five (5) years, or both such fine and imprisonment~~]. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(3) Any person who violates any provisions of KRS 45A.330 to 45A.340, shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(4) Any willful violation of KRS 45A.690 to 45A.725 shall be a Class A misdemeanor.

(5) Any person who willfully violates this code shall be ***guilty of a Class A misdemeanor*** [~~punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment in the discretion of the jury~~].

(6) Any employee or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a ***Class C*** felony [~~and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury~~].

(7) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employee or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a ***Class C*** felony [~~and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury~~].

(8) Criminal penalties for violations of the laws which are in existence on January 1, 1980, shall not be impaired.

(9) This section shall not apply to any officer or employee of a political subdivision, including a school district, nor to the procurement activities of any such political subdivision unless such political subdivision has elected to operate under KRS 45A.345 through 45A.460.

Section 8. KRS 61.190 is amended to read as follows:

Any public officer who shall receive, directly or indirectly, any interest, profits or perquisites arising from the use or loan of public funds in his hands, or to be raised through his agency, shall be ***guilty of a Class D felony*** [~~punished by confinement in the penitentiary for not less than one (1) nor more than five (5) years~~]. The judgment of conviction shall recite that the offender is disqualified to hold any public office thereafter.

Section 9. KRS 64.990 is amended to read as follows:

(1) If any officer to whom KRS 64.050 applies, or his personal representative, trustee or committee, as the case may be, collects any fees, accounts or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims and accounts due to him in his official capacity, he, or his personal representative, committee or trustee, as the case may be, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than five hundred dollars ($500) for each offense~~].

(2) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the Department of Local Government, as required by subsection (1) of KRS 64.050, he shall be ***guilty of a Class B misdemeanor*** [~~fined not less than five hundred dollars ($500) for each offense~~]. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) nor more than five (5) years~~].

(3) If any deputy or personal representative issuing a fee bill pursuant to KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee bill, he shall be subject to the same penalties as an officer issuing such a fee bill.

(4) Every fee bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.

(5) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a ***Class B misdemeanor*** [~~high misdemeanor and fined not less than fifty dollars ($50) nor more than two hundred dollars ($200)~~] and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.

(6) Any official who violates the provisions of KRS 64.820 to 64.850 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and upon conviction shall be removed from office~~].

Section 10. KRS 70.990 is amended to read as follows:

(1) If the sheriff fails to renew the bond required of him by KRS 70.020 when ordered to do so by the county judge/executive, the county judge/executive shall suspend him from acting until he conforms with the order, or may vacate his office.

(2) If the sheriff violates any of the provisions of KRS 70.140, he ***shall be guilty of a violation*** [~~may be summarily fined, not more than twenty dollars ($20), by the court in which the offense is committed~~].

(3) Any sheriff who knowingly makes a false or illegal return on any process or fee-bill, by color of his office, shall be ***guilty of a Class A misdemeanor and*** liable to the person injured for treble the damage caused thereby.

(4) If the constable fails to give additional security or to renew his bond when ordered to do so by the county judge/executive, the county judge/executive shall enter an order declaring his office vacant.

(5) Any constable who executes any process, other than a fee-bill for his own service, in which he is personally interested shall be ***guilty of a violation*** [~~fined ten dollars ($10) for each offense~~].

(6) Any constable who violates any of the provisions of KRS 70.390 shall be ***guilty of a violation*** [~~fined five dollars ($5)~~]. If he violates subsections (1) or (2) of KRS 70.390 he shall be liable for the amount of the claim.

(7) Any constable or deputy constable in any county containing a population of over 250,000 who violates any of the provisions of KRS 70.440 shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than two (2) nor more than ten (10) years~~].

(8) If the constable fails to return any process, placed in his hands, by the return day, the plaintiff may recover five dollars ($5) from him upon motion before the court from which the process issued.

(9) If a constable fails without reasonable excuse to return process placed in his hands for collection within twenty (20) days after the return day he shall be liable for the amount of the process plus ten percent (10%).

Section 11. KRS 119.115 is amended to read as follows:

(1) Any unauthorized person found in possession of any key to a voting machine to be used or being used in any primary, general or special election shall be guilty of a Class A misdemeanor.

(2) Any person who, during or before any primary, general, or special election willfully tampers with or attempts to tamper with, disarrange, deface, or impair in any manner whatsoever, injures or destroys any ballot label, or destroys any such voting machine while in use at an election or at any other time, or who shall, after such machine is locked and sealed in order to preserve the record of the vote, tamper with or attempt to tamper with the record of the vote, or who aids or abets with intent to destroy or change the record of the vote shall be ***guilty of a Class C felony*** [~~punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years~~].

(3) Any election official, or other person entrusted with the custody or control of any voting machine who, with intent to cause or permit any voting machine to fail to correctly register votes cast thereon, tampers with or disarranges such machine in any way, unlawfully opens such voting machine, prevents or attempts to prevent the correct operation of such voting machine or causes such voting machine to be used or consents to its being used for any election with knowledge of the fact that the machine is not in order, or not perfectly set and adjusted to correctly register all votes cast thereon, or removes, changes or mutilates any ballot label on a voting machine shall be ***guilty of a Class C felony*** [~~punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years~~].

Section 12. KRS 119.165 is amended to read as follows:

(1) Any person who falsely personates a registered voter, and receives and casts a ballot by means of such personation, shall be guilty of a Class D felony. An attempt at such personation shall constitute a Class ***A*** [~~B~~] misdemeanor.

(2) Any person who, by means other than falsely personating a registered voter, votes at an election in this state when he is a resident of another state or country, or votes more than once at an election, or [~~knowingly votes or offers to vote in a precinct other than the one in which he resides, or~~] votes by use of the naturalization papers of another person, shall be guilty of a Class D felony. ***Any person who knowingly votes or attempts to vote in a precinct other than the one in which he resides shall be guilty of a Class A misdemeanor, unless by voting in a precinct in which he does not live he is enabled to vote in a race or on a matter in which he could not vote in his proper precinct in which case he shall be guilty of a Class D felony.*** Any person who lends or hires his or another's naturalization papers to be used for the purpose of voting shall be subject to the same penalty.

(3) Any resident of this state who, by means other than falsely personating a registered voter, votes at a regular or special election before he has resided in this state thirty (30) days, or in the county and precinct where the election is held the time required by law, or before he has attained full age, or before he has become a citizen, shall be guilty of a Class B misdemeanor.

(4) Any person who, by means other than falsely personating a registered voter, votes in a primary election knowing that he is not qualified as provided in KRS 116.055, shall be ***guilty of a violation*** [~~fined one hundred dollars ($100) for each offense~~].

(5) Any person who applies for or receives a ballot at any voting place other than the one at which he is entitled to vote, under circumstances not constituting a violation of any of the provisions of subsections (1) to (4) of this section, shall be guilty of a Class A misdemeanor.

Section 13. KRS 119.195 is amended to read as follows:

(1) Any person who, during an election, knowingly and willfully removes or attempts to remove an official ballot from the election room, or has in his possession outside the election room any official ballot, either genuine or counterfeit, shall be guilty of a Class D felony.

(2) Any voter who attempts to leave the election room with an official ballot in his possession shall at once be arrested on demand of either of the judges of election and shall be ***guilty of a violation, unless the***

act was done knowingly in which event he shall be guilty of a Class A misdemeanor [~~fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100)~~].

(3) Any person who takes or removes in any manner, feloniously or with the consent or permission of the custodian, any official ballot from any place where it may lawfully be, or knowingly and willfully has in his possession or custody any such official ballot, except as an officer or custodian under the law or while within the polling place for the purpose of voting, and any custodian or officer who permits any official ballot to be removed or carried away from the place where it may lawfully be by any person other than the officer or custodian whose duty it is to receive it, shall be guilty of a Class C felony.

(4) Any election officer, or other person entrusted with the custody or control of any official ballot, either before or after it has been voted, who in any way marks, mutilates or defaces any official ballot or places any distinguishing mark thereon, for the purpose of vitiating the official ballot, shall be ***guilty of a Class C felony*** [~~fined not more than two thousand dollars ($2,000) and imprisoned in the penitentiary for not less than five (5) years nor more than ten (10) years~~].

(5) Any person who unlawfully destroys or attempts to destroy any official ballot box used, or any official ballot deposited, at any election, or who unlawfully, by force, fraud or other improper means, obtains or attempts to obtain possession of any ballot box or any official ballot therein deposited, while the voting at any election is going on or before the official ballots are duly taken out and counted according to law, shall be ***guilty of a Class C felony*** [~~confined in the penitentiary for not less than one (1) year nor more than five (5) years, and fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000)~~].

(6) Any election officer who mutilates or tampers with any of the seals, or destroys or removes any official ballots required to be preserved, shall be guilty of a Class D felony.

(7) Any county clerk who knowingly and willfully opens any ballot box and removes any official ballot therefrom, or removes, destroys or tampers with a ballot box and official ballots left in his care and custody, or permits any other person to do so, during the period the boxes are required to remain locked in his office, shall be guilty of a Class D felony.

(8) Any person who removes, mutilates or destroys, or adds any new official ballots to, the regular official ballots that have been counted and prepared for preservation, or that have already been preserved, so that the result of the election in the precinct or county is changed, shall be guilty of a Class D felony.

(9) Any person who tampers with or changes the official ballots, or opens the receptacles in which the official ballots are contained without the order of the court, after the ballots have been sent to the Franklin County courthouse in connection with the contest of a constitutional amendment, shall be guilty of a Class ***D felony*** [~~A misdemeanor~~].

Section 14. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who willfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be ***guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year~~].

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be ***guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year~~].

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be ***guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not more than one (1) year~~].

(4) Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that willfully violates any of the provisions of subsection (1) of KRS 121.035 shall be ***guilty of a Class D felony*** [~~fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense~~], and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who willfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year~~].

(7) Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and ***shall be guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year~~].

(8) Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or ***shall be guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not more than six (6) months, or both~~].

(9) Any person who willfully violates any provision of KRS 121.110 to 121.200 shall be ***guilty of a Class A misdemeanor*** [~~punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both~~]. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who willfully violates any provision of KRS 121.110 to 121.200, or whose campaign treasurer willfully violates any provision of KRS 121.110 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.110 to 121.200.

(12) The Commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Any officeholder who willfully violates the provisions of KRS 121.150(11) shall be subject to removal from office by impeachment.

(14) [~~Prosecution for violation of any provision of this chapter shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.~~

~~(15)~~] Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or ***be guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for not more than six (6) months, or both~~].

(15)[~~(16)~~] Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be ***guilty of a Class A misdemeanor and shall be*** fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16)[~~(17)~~] Any person who willfully violates any of the provisions of KRS 121.320 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both~~].

(17)[~~(18)~~] Any person who violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(18)[~~(19)~~] Any person who fails to pay a civil penalty, assessed by the registry for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

Section 15. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146 or 138.195, for which a specific penalty is not provided, shall be ***guilty of a violation*** [~~fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500)~~] for the first offense; for each such subsequent offense, he shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) and, if the offender is an individual, may be confined in the county jail for not more than six (6) months~~]. These ***penalties*** [~~fines~~] shall be in addition to the civil penalties provided by KRS 138.165, 138.185 and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) for the first offense~~]; for each subsequent offense, he shall be ***guilty of a Class B misdemeanor*** [~~fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500)~~]. These ***penalties*** [~~fines~~] shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder, shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000)~~]. This ***penalty*** [~~fine~~] shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a ***Class D*** felony [~~and shall be imprisoned in the penitentiary for not less than one (1) nor more than two (2) years~~].

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a ***Class D*** felony [~~and imprisoned for not less than two (2) nor more than ten (10) years in the state penitentiary~~].

(6) Any person who sells, offers to sell or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a ***Class D*** felony [~~and imprisoned for not less than two (2) or more than ten (10) years in the state penitentiary~~].

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. ***Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony*** [~~, and shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary~~].

(8) Any person who violates any of the provisions of KRS 138.300 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than six (6) months, or both~~]. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year, or both~~]. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) Any person who violates any of the provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000). If the offender is an individual, he ***shall be guilty of a Class A misdemeanor*** [~~may be imprisoned in the county jail for not more than six (6) months, or both so fined and imprisoned~~].

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be ***guilty of a Class B misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both~~].

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a ***Class A*** misdemeanor[~~, and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both, in the discretion of the court~~].

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a ***Class A*** misdemeanor [~~and upon conviction is punishable by a fine of not less than nineteen dollars ($19) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment~~].

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be ***guilty of a Class D felony*** [~~confined in the penitentiary not less than two (2) nor more than five (5) years~~].

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 16. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270 or 139.410, knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with KRS 139.490, knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner; or

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030;

shall ***be guilty of a Class B misdemeanor*** [~~, upon conviction, be subject to a fine of not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment~~].

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, [~~is guilty of a misdemeanor and upon conviction thereof~~] shall be ***guilty of a Class B misdemeanor*** [~~fined not less than ten (10) nor more than one hundred dollars ($100), or imprisoned for not more than thirty (30) days, or both such fine and imprisonment~~].

(3) Any person who violates any of the provisions of KRS 139.220, 139.370, 139.380, 139.700, or 139.750 shall ***be guilty of a Class B misdemeanor*** [~~, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100), or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment~~].

(4) Any person who violates any of the regulations promulgated by the cabinet under KRS 139.230 shall ***be guilty of a Class B misdemeanor*** [~~, upon conviction, be subject to a fine of not less than ten (10) nor more than one hundred dollars ($100) or imprisoned in jail for a period not exceeding thirty (30) days, or both such fine and imprisonment~~].

(5) Any person, business or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a ***Class D*** felony [~~and, upon conviction thereof, shall be fined not more than five thousand~~

~~dollars ($5,000), or imprisoned not more than three (3) years, or both, together with the costs of prosecution~~]. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 17. KRS 141.990 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may make an estimate of the net income from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of twenty-five percent (25%) of the amount of any deficiency tax assessed concerning the failure or refusal to file a return or furnish any information. This penalty shall be in addition to all other applicable penalties in this section.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five ***(5%)*** percent of the tax found to be due by the cabinet shall be added to the tax for each thirty ***(30)*** days or fraction thereof that filing the return is beyond the time prescribed or extended, but the total penalty shall not exceed twenty-five percent (25%) of the tax.

(3) If any taxpayer fails to pay the tax imposed by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, there shall be added to the tax found to be due by the cabinet one-half percent (0.5%) of the amount of the tax if the failure is for not more than one (1) month, with an additional one-half percent (0.5%) for each additional month or fraction thereof that payment of the tax is made beyond the time prescribed or extended, but the total penalty shall not exceed twenty-five percent (25%) of the tax.

(4) If any corporation granted an extension of time to file its income return under the provisions of KRS 141.170(2) fails to pay any remaining balance shown on the return by the extended due date of the return, or fails to pay, prior to the granting of the extension, an amount equal to either:

(a) The tax shown on the return of the corporation for the preceding taxable year, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and the preceding year was a taxable year of twelve (12) months; or

(b) Ninety percent (90%) of its liability for the taxable year after the liability is reduced by any estimated tax payments, overpayments from prior years or other prepayments which may be properly claimed as a credit, then, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, the penalty provided for in subsection (3) of this section shall be imposed from the original due date of the return.

(5) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent (5%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(6) If any part of any deficiency is due to fraud with intent to evade tax, fifty percent (50%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(7) Any person required under the provisions of KRS 141.150 or 141.335 to furnish a statement required under that section who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner at the time and showing the information required under KRS 141.150 and 141.335, may for each [~~such~~] failure be subject to a civil penalty of ten dollars ($10). ***The*** [~~Such~~] penalty may be assessed and collected by the cabinet, and the assessment of ***the*** [~~such~~] penalty may be reviewed only in the manner provided in KRS 131.110.

(8) (a) Any employer required under the provisions of KRS 141.310, 141.315 or 141.330 to withhold taxes on wages, file returns, and make payment of amounts withheld to the cabinet, who fails to withhold such taxes, or to file ***the*** [~~such~~] returns when due, or who fails to remit amounts collected to the cabinet when due, or when filing the returns understates the amount due shall, unless ***the*** [~~such~~] failure to comply is shown to the satisfaction of the cabinet to be due to reasonable cause, be subject to a civil penalty equal to five percent (5%) per month or fraction thereof not to exceed twenty-five percent (25%), of the amount of taxes that should have been properly withheld and paid over to the cabinet, or ten dollars ($10), whichever is greater, for each [~~such~~] failure. However, where ***the*** [~~such~~] failure is shown to be due to reasonable cause the cabinet may reduce the penalty provided herein to an amount equal to five percent (5%) of the amount of taxes that should have been properly withheld and paid over to the cabinet but not to exceed one hundred dollars ($100), or ten dollars ($10), whichever is greater, for each [~~such~~] penalty. Each penalty shall be assessed and collected

by the cabinet and the assessment of ***the*** [~~such~~] penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return and payment are received within thirty (30) days after the due date and the employer has no previous record of late filing or late payment within two (2) years next preceding ***the*** [~~such~~] due date.

(b) Any employer required to file a return under the provisions of KRS 141.330(1) when no tax should have been properly withheld, and who fails to file the same when due, shall be subject to a civil penalty of ten dollars ($10) for each violation. ***The*** [~~such~~] penalty shall be assessed and collected by the cabinet and the assessment of ***the*** [~~such~~] penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return is received within thirty (30) days after the due date and the employer has no previous record of late filing within two (2) years next preceding ***the*** [~~such~~] due date.

(9) Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay ***the*** [~~such~~] declaration of estimated tax may be subject to a penalty of ten percent (10%) of any underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting applicable credits allowed by KRS 141.070, 141.300 and 141.310 from seventy percent (70%) of the tax liability as shown on the return for the taxable year. This subsection shall not apply to the taxable year in which the death of the taxpayer occurs nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305.

(10) Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay ***the*** [~~such~~] declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044, may be subject to a penalty of ten percent (10%) of any installment underpayment or any installment not paid on time. Installment underpayment is the installment determined by subsection (1) of KRS 141.044, less the installment actually paid, based upon seventy percent (70%) of the income tax shown to be due on the final return for the year reduced by five thousand dollars ($5,000).

(11) Any penalty imposed by subsections (1), (2), (3), (4), (5), (6), (7), or (8) of this section shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(12) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(13) In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall ***be guilty of a Class D felony*** [~~upon conviction thereof be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or confined in the penitentiary for not less than twelve (12) months or more than five (5) years, or both~~].

(14) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under KRS Chapter 141 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not ***the*** [~~such~~] falsity or fraud is with the knowledge or consent of the person authorized or required to present ***the*** [~~such~~] return, affidavit, claim, or document, shall be guilty of a ***Class D*** felony [~~and, upon conviction thereof, shall be fined not more than five thousand dollars ($5,000), or imprisoned not more than three (3) years, or both, together with the costs of prosecution~~].

(15) A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the cabinet and required to be filed with the cabinet by the provisions of this chapter, or by the rules and regulations of the cabinet or by written request for information to the taxpayer by the cabinet.

Section 18. KRS 154A.990 is amended to read as follows:

(1) Any person who knowingly sells a lottery ticket to a person under eighteen (18) years of age shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)~~] for the first offense and for each subsequent offense ***shall be guilty of a Class B misdemeanor*** [~~not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000)~~].

(2) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket shall be guilty of a Class C felony.

(3) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception or tampering with lottery equipment or materials shall be guilty of a Class B felony.

(4) Any person who violates the provisions of KRS 154A.030(2) shall be ***guilty of a Class D felony*** [~~fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000)~~] and shall be removed from the board.

(5) Any person who violates the provisions of KRS 154A.080(2) shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) and shall be guilty of a Class D felony.

(6) Any person who violates the provisions of KRS 154A.080(3) shall be ***guilty of a Class D felony*** [~~fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000)~~].

(7) Any person who violates the provisions of KRS 154A.080(4) shall be ***be guilty of a Class A misdemeanor*** [~~fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000)~~].

(8) Any person who willfully violates the provisions of KRS 154A.420(1) shall be fined not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) and shall be guilty of a Class D felony.

(9) Any person who violates the provisions of KRS 154A.440(1) for the first offense shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)~~] and for each subsequent offense shall be ***guilty of a Class B misdemeanor*** [~~fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) and may be imprisoned for not more than ninety (90) days~~].

(10) Any person violating KRS 154A.160(3) is guilty of a Class D felony.

Section 19. KRS 164.990 is amended to read as follows:

(1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 is guilty of a Class D felony, and in addition thereto shall forfeit to the state all equipment used in committing the offense for which such person is convicted.

(2) Any person who violates the provisions of KRS 164.980 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than one thousand dollars ($1000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both~~].

(3) Any person who violates KRS 164.377 shall be guilty of a Class A misdemeanor.

Section 20. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(2), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be ***guilty of a violation*** [~~fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense~~].

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both~~].

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than twelve dollars ($12) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both~~].

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be ***guilty of a violation*** [~~subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet~~].

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a ***Class D*** felony [~~and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years~~]. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months~~].

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000)~~].

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor ***if the amount of tax due is less than one hundred dollars ($100). If the amount of tax due is more than one hundred dollars ($100), the person shall be guilty of a Class D felony***.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor ***if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100),*** and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 21. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both~~].

(2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.

(3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be ***guilty of a Class B misdemeanor*** [~~fined not less than ten dollars ($10) nor more than fifty dollars ($50), or imprisoned for not more than thirty (30) days, or both~~]. Each failure or violation shall constitute a separate offense.

(4) Any person who violates the provisions of subsections (1), (2) and (3) of KRS 205.850 shall be guilty of a Class D felony.

(5) Any person who violates subsection (4) of KRS 205.850 shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any such application, claim, report or document, or in any combination or aggregation thereof, is valued at one hundred dollars ($100) or more in which case it shall be a Class D felony.

(6) Any person who violates the provisions of subsection (5) of KRS 205.850 shall be guilty of a Class C felony.

(7) Any person who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(8) Any provider who violates subsections (1) to (6) of KRS 205.850 shall, in addition to any other penalties provided by law, including the penalty set forth in subsection (7) of this section, forfeit and pay civil penalties of:

(a) Payment to the state treasury's general revenue fund in an amount equal to three (3) times the amount of such benefits and payments to which the person was not entitled; and

(b) Payment of all reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(9) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for each violation~~].

Section 22. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100)~~], and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100)~~]. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be ***guilty of a Class A misdemeanor*** [~~fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or confined in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both~~]. Each subsequent violation of any provision of KRS 211.182 shall constitute a ***Class D*** felony [~~and be punishable by a fine of not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not less than one (1) nor more than three (3) years, or both~~].

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Human Resources to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or confined for not less than thirty (30) days nor more than twelve (12) months, or both~~]. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Human Resources adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be ***guilty of a Class A misdemeanor*** [~~subject to a fine of one thousand dollars ($1,000) for each violation~~].

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be ***guilty of a Class D felony*** [~~subject to a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation~~].

(8) The penalties provided in subsections (6) and (7) of this section, are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

Section 23. KRS 214.990 is amended to read as follows:

(1) Every head of a family who wilfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100)~~] for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for Human Resources under KRS 214.020 shall ***be guilty of a Class B misdemeanor*** [~~, for each offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than sixty (60) days, or both~~].

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be ***guilty of a violation*** [~~fined not less than five dollars ($5) nor more than ten dollars ($10)~~].

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense, or imprisoned in the county jail for not less than three (3) months nor more than six (6) months, or both~~].

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than ten dollars ($10) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both~~].

(6) Any person who violates any provision of KRS 214.420 shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50) nor more than one hundred dollars ($100)~~]. Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

Section 24. KRS 217.993 is amended to read as follows:

(1) Any person violating any provisions of KRS 217.650 to 217.710 shall be guilty of a ***violation*** [~~misdemeanor and shall on conviction be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment for not more than thirty (30) days, or both~~]. Each day of violation shall constitute a separate offense.

(2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be guilty of a Class B misdemeanor.

(3) Any person found guilty of inhaling a volatile substance in violation of KRS 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet for Human Resources, where a program of education, treatment and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment or may order the person subject to the fine or imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person from the facility by the clinical director or his designee prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The clinical director or his designee shall notify the sentencing court of the date of such discharge from the facility.

(4) The secretary of the Cabinet for Human Resources or his designee shall inform each court of the identity and location of the facility to which a person may be ordered under this section.

(5) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Human Resources unless the facility shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) Any person violating any provision of KRS 217.900(3) shall upon conviction be guilty of a Class D felony.

Section 25. KRS 224.99-010 is amended to read as follows:

(1) Any person who violates KRS 224.10-110(2) or (3), KRS 224.70-110, 224.73-120, 224.20-110, 224.46.580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any ***further*** [~~such~~] violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates subsections (4) or (5) of KRS 224.10-110, or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any ***further*** [~~such~~] violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be ***guilty of a Class A misdemeanor*** [~~punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation~~]. Each day upon which ***the*** [~~such~~] violation occurs shall constitute a separate violation.

(b) For ***offenses*** [~~violations~~] by motor vehicles, ***a person shall be guilty of a violation*** [~~the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense~~].

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.40-305, or KRS 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which ***a*** [~~such~~] violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which ***the*** [~~such~~] violation continues, and in addition, may be enjoined from continuing ***the*** [~~such~~] violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a ***Class D*** felony[~~, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation~~]. Each day upon which ***a*** [~~such~~] violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any [~~such~~] violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of ***the*** [~~such~~] receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools.

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

Section 26. KRS 230.990 is amended to read as follows:

(1) Any person who violates KRS 230.070 or subsection (3) of KRS 230.080 shall be ***guilty of a Class D felony*** [~~fined not more than one thousand dollars ($1,000). In addition to the fine, he shall be imprisoned in the county jail for not more than one (1) year or imprisoned in the penitentiary for not more than two (2) years~~].

(2) Any person who violates KRS 230.090 shall ***be guilty of a Class A misdemeanor*** [~~, for each offense, be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both fined and imprisoned~~].

(3) Any person who violates KRS 230.680 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day of the meeting or racing~~].

(4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than six (6) months, or both~~].

(5) Any person failing to appear before the commission at the time and place specified in the summons issued pursuant to KRS 230.260(7), or refusing to testify, shall be [~~deemed~~] guilty of a ***Class B*** misdemeanor [~~and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both~~]. False swearing on the part of any witness shall be deemed perjury and punished as such.

Section 27. KRS 234.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 234.100 to 234.160 shall be ***guilty of a violation*** [~~fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200)~~].

(2) Any person who violates any regulation promulgated under provisions of KRS 234.100 to 234.160 and after having been given notice to cease and desist, unless said violation is corrected within ten (10) days, shall be ***guilty of a violation*** [~~fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day said violation continues subsequent to the ten (10) day period~~].

(3) When any person violates any provision of KRS 234.100 to 234.180 or regulations, which violation constitutes a public danger, an immediate notice to cease and desist may be issued, and failure to comply with notice shall be ***guilty of a*** [~~held in~~] violation[~~, and failure to comply immediately upon presentation of said notice shall result in a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day said violation continues subsequent to the day of issuance of notice~~].

(4) Any person violating the provisions of KRS 234.200 to 234.260 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than sixty (60) days~~].

(5) Any firm or corporation violating the provisions of KRS 234.200 to 234.260 shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)~~].

(6) Any person violating any provision of KRS 234.430 shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both~~]. Upon conviction of a second offense, he shall be ***guilty of a Class D felony*** [~~imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary~~].

(7) Any person violating the provision of KRS 234.190 prohibiting the filling of a tank without owner permission shall be ***guilty of a Class B misdemeanor*** [~~fined not less than five hundred dollars ($500) nor~~

~~more than one thousand dollars ($1,000) for the first offense~~]. Upon conviction of a second offense, and subsequent offenses, the violator shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not more than sixty (60) days, or both~~].

Section 28. KRS 237.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one nor more than five years, or punished by a fine of not more than $1,000, or both~~].

(2) Any person who violates any of the provisions of KRS 237.030 to 237.050, and in so doing uses any destructive device or booby trap device to avoid detection by law enforcement or other government personnel or to avoid theft or detection by any other person, of any controlled substance as set forth in KRS Chapter 218A and held in violation of KRS 218A.140, shall be ***guilty of a Class C felony*** [~~confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both~~].

Section 29. KRS 241.990 is amended to read as follows:

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employee in violation of subsection (3) of KRS 241.170, or acted as an urban-county administrator in violation of KRS 241.230, shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a ***Class D*** felony [~~and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than two (2) years, or both~~].

Section 30. KRS 242.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter, for which no other penalty is herein provided, shall, for the first offense, be ***guilty of a Class B misdemeanor*** [~~fined not less than twenty (20) nor more than one hundred dollars ($100) and, if a natural person, imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days~~]; for the second offense, he shall be ***guilty of a Class A misdemeanor*** [~~fined not less than forty (40) nor more than two hundred dollars ($200) and, if a natural person, imprisoned in the county jail for not less than sixty (60) nor more than one hundred and twenty (120) days~~]; for the third and each subsequent offense, he shall ***be guilty of a Class D felony*** [~~, if a natural person, be confined in the penitentiary for not less than one (1) nor more than two (2) years, and if a corporation, be fined not less than one thousand (1,000) nor more than two thousand dollars ($2,000)~~].

(2) Any officer who violates subsection (2) of KRS 242.370 shall be ***guilty of a violation*** [~~fined not less than one hundred (100) nor more than five hundred dollars ($500)~~].

Section 31. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]; and for the second and each subsequent violation, he shall be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]; for the second offense, he shall be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]; and for the third and each subsequent offense, he shall be ***guilty of a Class D felony*** [~~fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both~~].

(3) Any person who violates subsection (3) of KRS 243.020 shall be ***guilty of a violation*** [~~fined not less than one hundred (100) nor more than five hundred dollars ($500)~~].

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be ***guilty of a violation*** [~~fined not less than fifty (50) nor more than five hundred dollars ($500)~~].

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both~~].

(6) Any person required to pay any tax or file any report or statement provided by KRS 243.710 to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty percent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.

Section 32. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]; and for the second and each subsequent violation, he shall be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both~~]. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.170 shall, upon the first conviction, be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months~~]. Upon a second conviction he shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) year, nor more than five (5) years~~]. Upon the third and each subsequent conviction, he shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000)~~].

(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500)~~].

(4) Any person, firm or corporation violating any provision of KRS 244.083 and 244.085 shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10) nor more than one hundred dollars ($100)~~] and each violation shall constitute a separate offense.

(5) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be ***guilty of a violation,*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500)~~] and for each subsequent offense shall be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000)~~].

Section 33. KRS 251.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 251.180 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both~~].

(2) Any person who violates KRS 251.220 or 251.290 shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000), or imprisoned for not more than one (1) year, or both~~].

(3) Any person who violates KRS 251.240 shall be guilty of a ***Class D*** felony [~~and fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both~~].

(4) Any person who violates KRS 251.300 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both~~].

(5) Any person who violates the provisions of KRS 251.430 to 251.720 shall be ***guilty of a violation*** [~~fined two hundred dollars ($200) for the first offense~~]. He shall be ***guilty of a Class A misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days~~] for each subsequent offense. Each day of operation in violation of the provisions of KRS 251.430 to 251.720 shall constitute a separate offense.

(6) Any person who operates without a license as required by KRS 251.430 or 251.720 shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for at least one (1) but not more than five (5) years, or both.

(7) Any person who intentionally refuses or fails to pay moneys collected for assessment of grain under the Kentucky Grain Insurance Fund Program as set forth in KRS 251.640 shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

Section 34. KRS 304.6-030 is amended to read as follows:

(1) Any member, officer, director, employee, or attorney in fact of any company, association, or exchange licensed to do an insurance business in this state, who on behalf of such company, association, or exchange, borrows, rents, hires, leases, or otherwise engages the use of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness owned or issued by any other corporation, company, association, or individual, or of any government, political subdivision or agency thereof, with intent to injure or defraud any other company, body politic or corporation, or person, or to deceive the commissioner or other person legally authorized to examine the affairs of any such company, association, or exchange, is guilty of a ***Class D*** felony.

(2) Any individual that aids and abets such insurance company, association or exchange in borrowing, renting, hiring, leasing, or engaging the use of such stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness, is guilty of a ***Class D*** felony.

(3) [~~Any individual who has been convicted under subsection (1) or (2) of this section shall be sentenced to imprisonment for a term of not less than one (1) year nor more than seven (7) years, or be sentenced to pay a fine not exceeding ten thousand dollars ($10,000), or both.~~

~~(4)~~] If any insurance company, association, or exchange is found in possession of stocks, bonds, debentures, notes, investment certificates, securities, or other obligations or evidences of indebtedness acquired in violation of subsection (1) of this section, or if any of its officers, directors, members, or attorneys in fact have been convicted under subsection (1) of this section, ***the*** [~~such~~] company, association, or exchange may be subject to suspension of its certificate of authority by the commissioner. Nothing in this section shall be construed to prevent the commissioner from commencing delinquency proceedings under this code.

Section 35. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be ***guilty of a violation*** [~~fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense~~].

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned~~]. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 ***is a Class A misdemeanor*** [~~shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both~~]. Each subsequent violation of

KRS 311.560 shall constitute a ***Class D*** felony [~~and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both~~].

(5) Each violation of KRS 311.590 shall constitute a ***Class D*** felony [~~and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years~~]. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Human Resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be ***a Class A misdemeanor*** [~~punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both~~].

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be ***a Class B misdemeanor*** [~~punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both~~], and, for each subsequent offense ***shall be a Class A misdemeanor*** [~~, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both~~].

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be ***a violation*** [~~punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both~~], and, for each subsequent offense, ***be a Class B misdemeanor*** [~~by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both~~].

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be ***guilty of a Class B felony*** [~~imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years~~].

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be ***guilty of a Class D felony*** [~~imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both~~].

(18) A person convicted of violating KRS 311.780 shall be ***guilty of a Class C felony*** [~~imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years~~].

(19) Any person who violates KRS 311.810 shall be ***guilty of a Class A misdemeanor*** [~~imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both~~].

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606~~].

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a ***violation*** [~~misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200)~~].

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a ***Class A misdemeanor*** [~~violation and on conviction shall be subject to a penalty up to one thousand dollars ($1,000)~~]. Each day a violation is continued after the first conviction shall be a separate offense.

Section 36. KRS 313.990 is amended to read as follows:

(1) Any person who practices or attempts to practice dentistry without a license in violation of KRS 313.020 shall be ***guilty of a Class B misdemeanor*** [~~fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both,~~] for the first offense; and for each subsequent offense shall be ***guilty of a Class A misdemeanor*** [~~fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both~~]. Each day that a person without a license, practices or attempts to practice dentistry shall constitute a separate offense.

(2) Any person who violates subsection (2) of KRS 313.040 shall be ***guilty of a Class D felony*** [~~confined in the penitentiary not less than one (1) nor more than five (5) years~~].

(3) Any person who violates KRS 313.230 shall be ***guilty of a violation*** [~~fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00)~~] for the first offense; and for each subsequent offense shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days, or both~~].

(4) Any person who violates KRS 313.240 shall be ***guilty of a violation*** [~~fined not more than one thousand dollars ($1,000)~~]. For a second or subsequent offense, the license of any person who has violated ***that*** [~~such~~] section may be suspended or revoked as provided in KRS 313.150.

(5) Any person who violates any provision of KRS 313.030 to 313.250 for which no specific penalty has been provided shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500)~~] for the first offense; and for each subsequent offense shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both~~]. Each day that a person illegally holds himself out as practicing dentistry shall constitute a separate offense.

(6) Any person who violates any provision of KRS 313.260 to 313.350 shall be ***guilty of a Class B misdemeanor*** [~~fined not more than fifty dollars ($50.00) or imprisoned in the county jail for not more than thirty (30) days, or both~~].

(7) Any dentist who violates the provisions of KRS 313.410 shall, upon conviction thereof, be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than thirty (30) days nor more than sixty (60) days or both~~].

(8) Any person who knowingly sells dental supplies and equipment to a person who has been convicted under subsection (1) of this section shall be ***guilty of a Class B misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days or both,~~] for the first offense; and for each subsequent offense shall be ***guilty of a Class A misdemeanor*** [~~fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both~~].

Section 37. KRS 341.990 is amended to read as follows:

(1) Any employee of any state department who violates any of the provisions of KRS 341.110 to 341.230 shall be ***quilty of a Class B misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than two hundred dollars ($200) or imprisoned for not more than ninety (90) days, or both~~].

(2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation or hearing conducted under this chapter who fails to obey the subpoena shall be ***quilty of a Class B misdemeanor*** [~~fined not less than ten dollars ($10) nor more than one hundred dollars ($100) or imprisoned for not more than thirty (30) days, or both~~].

(3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than six (6) months, or both for each offense~~].

(4) Any person who violates subsection (2) of KRS 341.470 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, for each offense~~].

(5) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, shall be guilty of a Class A misdemeanor unless the value of the benefits procured or attempted to be procured is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(6) (a) Any person who knowingly makes a false statement or representation or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class A misdemeanor unless the liability avoided or attempted to be avoided is one hundred dollars ($100) or more, in which case he shall be guilty of a Class D felony.

(b) Any person who wilfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be ***quilty of a Class B misdemeanor*** [~~fined not less than ten dollars ($10) nor more than fifty dollars ($50) or imprisoned for not more than thirty (30) days, or both~~]. Each such false statement, representation or failure and each day of [~~such~~] failure or refusal shall constitute a separate offense.

(7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the department.

(8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10) nor more than fifty dollars ($50)~~]. Each day ***the*** [~~such~~] violation continues shall constitute a separate offense.

Section 38. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for the violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which the violation continues, and in addition, may be enjoined

from continuing the violations provided in this section. Any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Department of Law. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any person or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred and fifty dollars ($750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) The cabinet's Department of Law shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any operator or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a ***Class A*** misdemeanor [~~and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both~~]. Each day on which the violation occurs may constitute a separate offense.

(5) (a) Any person who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony [~~and upon conviction shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000)~~].

(b) Any person who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony [~~and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000)~~].

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a ***Class A*** misdemeanor [~~and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both~~].

(8) Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall ***be guilty of a Class A misdemeanor*** [~~, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both~~].

(9) When a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(11) The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet Division of Abandoned Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

Section 39. KRS 351.990 is amended to read as follows:

(1) Any commissioner of the Department of Mines and Minerals who ***willfully*** violates any of the provisions of subsection (2) of KRS 351.020, or any of the provisions of KRS 351.070 to 351.110 or KRS 351.160 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(2) Any person who violates standards promulgated under KRS 351.070 shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(3) Any person who violates any of the provisions of KRS 351.100 to 351.120 shall be ***guilty of a violation*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(4) Any mine inspector who violates any of the provisions contained in KRS 351.140 or 351.150 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(5) Any operator who violates any of the provisions of KRS 351.170 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(6) Any person who violates any of the provisions of subsection (1) of KRS 351.180 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000)~~].

(7) Any person who violates any of the provisions of KRS 351.315 to 351.375 or any regulation, determination, or order issued thereunder shall be subject to a civil fine not less than twenty dollars ($20) nor more than one thousand dollars ($1,000) for each violation.

(8) Any person who shall willfully violate any of the provisions of KRS 351.315 to 351.375, or any regulation, determination or order promulgated pursuant to the sections of KRS 351.315 to 351.375 which have become final shall be guilty of a ***Class A*** misdemeanor [~~and upon conviction thereof shall be punished by a fine of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000)~~].

(9) Any person who violates any of the provisions of KRS 351.330(16) shall be guilty of a Class B misdemeanor.

(10) Any person who violates any of the provisions of KRS 351.345(3) shall be guilty of a Class D felony.

(11) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to KRS Chapter 351 or 352, or any order or decision issued under KRS Chapter 351 or 352 shall, upon conviction, be ***guilty of a Class A misdemeanor*** [~~punished by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) or by imprisonment for not more than six (6) months, or both~~].

(12) Any person who knowingly works in or at a mine without a certificate issued under the provisions of this chapter, any person who knowingly employs an uncertified miner to work in an underground coal mine in this state, or any operator who fails to insure the supervision of trainee miners shall be guilty of a ***Class B*** misdemeanor [~~and shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500)~~]. Each day of employment shall constitute a separate offense.

(13) Any operator who fails to obtain his license as required by KRS 351.175 shall be guilty of a Class A misdemeanor as defined in KRS 532.090[~~, and shall be subject to a fine of not less than one hundred dollars ($100) nor more than three hundred dollars ($300) at the discretion of the court~~]. Each day the mine is operated without a license constitutes a separate offense. Venue for ***the*** [~~such~~] offenses shall lie in the county in which the offense occurred.

(14) Any operator operating a mine with knowledge that the mine has been placed under a valid closure order pursuant to KRS 351.175 shall be guilty of a Class D felony[~~, as defined in KRS 532.060, and shall be subject to a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000)~~]. Jurisdiction shall lie in the Circuit Court of the county in which the offense occurred.

Section 40. KRS 359.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 359.020 or 359.030 shall be ***guilty of a Class D felony*** [~~fined not more than five thousand dollars, or imprisoned in the penitentiary for not less than two nor more than five years, or both~~].

(2) Any person who violates any of the provisions of subsection (1) of KRS 359.050 shall be ***guilty of a violation*** [~~fined one hundred dollars for each day that business is carried on in violation of that subsection~~].

(3) Any person who violates any of the provisions of subsection (2) of KRS 359.090 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not less than three nor more than twelve months, or both~~].

Section 41. KRS 364.990 is amended to read as follows:

(1) Any person who violates any of the provisions of subsection (2) of KRS 364.050 shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one nor more than three years~~].

(2) Any person who violates any of the provisions of subsection (2) of KRS 364.080 shall be ***guilty of a violation*** [~~fined not less than twenty nor more than two hundred dollars for each offense~~], and shall be liable to the owner of the brand for all damage caused by the use of the brand.

(3) Any person who violates any of the provisions of subsection (2) of KRS 364.090 shall, for each offense, be ***guilty of a Class A misdemeanor*** [~~fined not less than one hundred nor more than five hundred dollars and imprisoned not less than one nor more than twelve months~~].

(4) Any person who violates any of the provisions of KRS 364.100 shall, for each offense, be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one nor more than three years~~].

(5) Any person who violates any of the provisions of KRS 364.110 shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one nor more than three years~~].

Section 42. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is ***guilty of a Class A misdemeanor*** [~~subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000)~~].

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense~~]. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense~~].

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be ***guilty of a Class B misdemeanor*** [~~fined not more than five hundred dollars ($500) for each offense~~].

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, or 367.813(1) shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any ***person who violates*** [~~violation of~~] KRS 367.310 shall be ***guilty of a violation*** [~~subject to a fine of not more than two hundred dollars ($200) for each offense~~].

(17) Any person, partnership, or corporation ***who violates*** [~~upon conviction of violation of~~] the provisions of KRS 367.850 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than twenty-five dollars ($25) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment~~].

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be ***guilty of a Class D felony*** [~~fined five thousand dollars ($5,000) per violation~~].

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be ***guilty of a violation*** [~~fined not less than fifty dollars ($50) nor more than five hundred dollars ($500)~~]. Either the Attorney General or the appropriate county health department shall have authority to prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

Section 43. KRS 376.990 is amended to read as follows:

(1) Any person who violates the provisions of subsection (2) of KRS 376.050 shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one year nor more than five years~~].

(2) Any person who violates any of the provisions of KRS 376.060 or 376.070 shall be ***guilty of a Class A misdemeanor*** [~~fined not less than fifty dollars nor more than one thousand dollars, or imprisoned for not less than one month nor more than twelve months, or both~~].

Section 44. KRS 382.990 is amended to read as follows:

(1) Any grantor of a deed or any holder of a note who lodges for record a deed, instrument, or deed assigning a note or a deed of release or an instrument wherein there is a release, and any county clerk or deputy county clerk who receives and permits to be lodged for record any such instrument or deed contrary to the provisions of KRS 382.110, 382.120, 382.290 or 382.360, shall be ***guilty of a violation*** [~~fined not less~~

~~than twenty-five dollars nor more than fifty dollars for each offense~~]; the clerk or deputy who actually receives and files the instrument for record shall incur the penalty, but no clerk or deputy shall be fined because of any false or erroneous statement in the instrument filed.

(2) Any person who willfully and fraudulently makes affidavit to any statement mentioned in KRS 382.120, which is false, knowing the statement to be false, shall be ***guilty of a Class A misdemeanor*** [~~fined not over five hundred dollars or imprisoned for not more than six months, or both~~], and in addition shall be liable to any person who may be injured by the making, filing, recording, or use of the affidavit.

(3) Any person who causes to be recorded in a county clerk's office a deed, deed of trust, or mortgage in violation of KRS 382.330, or fails to file the statement required by KRS 382.380, shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars~~].

(4) Any county clerk who records a deed or mortgage in violation of KRS 382.330 shall be ***guilty of a violation*** [~~fined not more than one hundred dollars~~].

(5) Any county clerk who, by himself or deputy, fails to perform any duty enjoined upon him by any of the provisions of KRS 382.110, 382.160, 382.180 to 382.200, 382.210, 382.250, 382.300 to 382.320, 382.360 or 382.370 shall be ***guilty of a violation*** [~~fined not less than one hundred dollars nor more than five hundred dollars for each offense~~].

(6) Any person who knowingly and intentionally gives a false name or address in any instrument or assignment mentioned in KRS 382.430, shall be ***guilty of a Class A misdemeanor*** [~~fined not less than ten dollars nor more than one thousand dollars~~].

(7) Any county clerk who fails to perform his duties under KRS 382.430, shall be ***guilty of a violation*** [~~fined not less than fifty dollars nor more than one hundred dollars~~].

(8) Any person who willfully and fraudulently gives a false statement as to the full actual consideration of property or the full estimated value under KRS 382.135, shall be guilty of a Class D felony.

Section 45. KRS 402.990 is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000)~~]. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be ***guilty of a Class A misdemeanor*** [~~imprisoned in the penitentiary for not less than three (3) nor more than twelve (12) months~~].

(2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500)~~].

(3) Any authorized person, with or without a license, who knowingly solemnizes a marriage prohibited by this chapter shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned not less than one (1) month nor more than twelve (12) months, or both~~].

(4) Any minister or priest who breaches the covenant required by KRS 402.060 shall be ***guilty of a Class A misdemeanor*** [~~fined not more than two thousand dollars ($2,000)~~].

(5) Any person who attempts to solemnize a marriage without a marriage license or without being authorized by the county judge/executive to solemnize marriages shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned for not less than one (1) month nor more than twelve (12) months, or both~~].

(6) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother or guardian of an applicant in obtaining a license shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not more than three (3) years~~].

(7) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be ***guilty of a Class D felony*** [~~imprisoned in the penitentiary for not less than one (1) nor more than five (5) years~~]. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.

(8) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be ***guilty of a Class A misdemeanor*** [~~fined not less than five hundred dollars ($500) nor more~~

~~than one thousand dollars ($1,000),~~] and removed from office by the judgment of the court in which he is convicted.

(9) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000)~~].

(10) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000)~~], and if he knowingly issues a license for a marriage prohibited by this chapter he shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both~~].

(11) Any person who violates any of the provisions of KRS 402.090 shall be ***guilty of a violation*** [~~fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each offense~~].

(12) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be ***guilty of a violation*** [~~fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00)~~].

(13) Any person failing to make the return required of him by KRS 402.220 shall be ***guilty of a violation*** [~~fined fifty dollars ($50.00)~~].

Section 46. KRS 433.770 is amended to read as follows:

(1) Any person who fraudulently and willfully removes, defaces, cuts down*,* or destroys a cornertree or cornerstone of the boundary of this state, or of the survey of any tract of land, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one nor more than five years~~].

(2) Any person who willfully and knowingly, but without a felonious intent, breaks down, damages*,* or removes any monument erected to designate the boundaries of this state or of any county or city, or the boundaries of any tract or lot of land, or any tree, post, stone*,* or mark planted for that purpose, shall be ***guilty of a violation*** [~~fined not less than ten dollars nor more than two thousand dollars~~].

Section 47. KRS 434.095 is amended to read as follows:

Any person who, with intent to defraud, either subsitutes one ***(1)*** instrument in writing for another and by this means causes the making of a loan or the extension of credit, or induces by any fraudulent instrument in writing the making of a loan or the extension of credit as a part of a transaction ***by which*** [~~whereby~~] either the title to real property is transferred or valuable improvements are placed on real property in this State, whether for the benefit of himself or another, is guilty of a ***Class D felony*** [~~misdemeanor and upon conviction shall be punished by confinement in the county jail not exceeding six months, or by a fine not exceeding $1,000, or by both such fine and confinement. Any person who has been convicted of the misdemeanor offense prescribed in this section shall, for such subsequent violation of this section, be guilty of a felony and upon conviction shall be punished by a fine of not less than $1,000, nor more than $5,000 or by confinement in the state penitentiary for not more than five years or by both such fine and confinement~~].

Section 48. KRS 434.320 is amended to read as follows:

(1) Any broker who, knowing that he is insolvent, accepts or receives or consents to receiving from a customer ignorant of the broker's insolvency, deposits of money, stocks, bonds, securities or other things of value belonging to the customer, to be used as margin for the purchase of stocks, bonds, grain, produce or cotton, otherwise than in payment of or security for an existing indebtedness, and who thereby causes the customer to lose, in whole or in part, such money, stocks, bonds, securities or other things of value, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one nor more than ten years~~].

(2) "Broker," as used in KRS 434.320, 434.330 and 434.340, means any person engaged in the business of buying or selling stocks, bonds, grain, produce or cotton, as agent or representative of other persons upon margins, and who charges commissions for his services.

Section 49. KRS 434.330 is amended to read as follows:

Any broker who has in his possession any money, stocks, bonds, securities or other things of value belonging to a customer, without having any lien on them or any special property in them, and pledges them or disposes of them without the customer's consent, shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one nor more than ten years~~].

Section 50. KRS 434.340 is amended to read as follows:

Every member of a firm of brokers and every officer, manager, agent or employee of a broker, who knowingly does consent to the doing of any act prohibited by KRS 434.320 or 434.330 shall be ***guilty of a Class D felony*** [~~confined in the penitentiary for not less than one nor more than ten years~~].

Section 51. KRS 434.445 is amended to read as follows:

(1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing sounds on phonograph records, discs, tapes, films or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.

(2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is to be transferred without the consent of the performer, shall be ***guilty of a Class D felony*** [~~fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both~~]. Each individual transfer or manufacture of such recorded article shall constitute a separate offense.

(3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or resale, or sells or resells, distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall be ***guilty of a Class A misdemeanor*** [~~fined not more than five hundred dollars ($500), or imprisoned for not less than ninety (90) days nor more than twelve (12) months, or both~~]. Possession of five (5) or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section. Each sale or resale of any such article shall constitute a separate offense.

(4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall be ***guilty of a violation*** [~~fined no more than five hundred dollars ($500)~~]. Each sale or distribution of any such article shall constitute a separate offense.

(5) This section does not apply to any person who transfers or causes to be transferred any such sounds intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

(6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the state police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

Section 52. KRS 434.570 is amended to read as follows:

In addition and supplemental to the acts proscribed under KRS 517.090, a person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or as to a material fact about his financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit or debit card, is guilty of a ***Class D*** felony [~~and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years~~].

Section 53. KRS 434.600 is amended to read as follows:

A person other than the issuer who sells a credit or debit card or a person who buys a credit or debit card from a person other than the issuer is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~].

Section 54. KRS 434.620 is amended to read as follows:

A person, other than the issuer, who receives a credit or debit card which he knows was obtained, taken or retained under circumstances which constitute a violation of KRS 434.570 to 434.610 is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~].

Section 55. KRS 434.630 is amended to read as follows:

(1) A person who, with intent to defraud a purported issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported credit or debit card, or utters such a credit or debit card or possesses such a credit or debit card with knowledge that such credit or debit card has been falsely made or falsely embossed is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~].

(2) A person other than the purported issuer who possesses two (2) or more credit or debit cards which are falsely made or falsely embossed is presumed to possess the same with knowledge that they have been falsely embossed or falsely made and with the intent to defraud.

(3) A person "falsely makes" a credit or debit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit or debit card of a named issuer but which is not such a credit or debit card because the issuer did not authorize the making or drawing, or alters a credit or debit card which was validly issued. A person "falsely embosses" a credit or debit card when, without the authorization of the named issuer, he completes a credit or debit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit or debit card before it can be used by a cardholder.

Section 56. KRS 434.650 is amended to read as follows:

(1) A person who, with intent to defraud the issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person:

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired or revoked; or

(b) Obtains money, goods, services or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or

(c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or KRS 516.030; or

(d) Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered or counterfeit check, draft, money order, or any other such document not his lawful or legal property, is guilty of a ***Class A*** misdemeanor [~~and is subject to the penalties set forth in subsection (1) of KRS 434.730~~], if the value of all money, goods, services or other things of value obtained in violation of this section does not exceed one hundred dollars ($100) in any six-month period; and is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730,~~] if such value exceeds one hundred dollars ($100) in any six-month period.

(2) A person who receives money, goods, services or anything else of value as a result of a false, fictitious, forged, altered or counterfeit check, draft, money order or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services or item of value that the document so deposited was false, fictitious, forged, altered or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

Section 57. KRS 434.660 is amended to read as follows:

A person, business organization or financial institution who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit or debit card by a cardholder, or any agent or employee of such person, business organization or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person, furnishes money, goods or services or anything else of value upon presentation of a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired or revoked is guilty of a ***Class A*** misdemeanor [~~and is subject to the penalties set forth in subsection (1) of KRS 434.730~~], if the value of all money, goods, services or other things of value furnished in violation of this section does not exceed one hundred dollars ($100) in any six-month period; and is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~], if such value exceeds one hundred dollars ($100) in any six-month period.

Section 58. KRS 434.670 is amended to read as follows:

A person, business organization or financial institution who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit or debit card by a cardholder, or any agent or employee of such person, business organization or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder or any other person, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished is guilty of a ***Class A*** misdemeanor [~~and is subject to the penalties set forth in subsection (1) of KRS 434.730~~], if the difference between the value of all money, goods, services or anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed one hundred dollars ($100) in any six-month period; and is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such difference exceeds one hundred dollars ($100) in any six-month period~~].

Section 59. KRS 434.680 is amended to read as follows:

(1) A person other than the cardholder possessing an incomplete credit or debit card, or possessing a purported distinctive element of a credit or debit card, with intent to complete such incomplete credit or debit card or to utilize such purported distinctive element in the production or reproduction of any credit or debit card without the consent of the issuer, or a person possessing, with knowledge of its character, a distinctive element of any credit or debit card or any machinery, plates or any contrivance designed to produce or reproduce instruments purporting to be the credit or debit cards, or a distinctive element of the credit or debit cards, of an issuer or of any issuer in a group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group, who has not consented to the production or reproduction of such card, is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~]. A credit or debit card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer or any issuer in a group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group, requires to appear on the credit or debit card before it can be used by the cardholder has not yet been stamped, embossed, imprinted or written on it. A "distinctive element" of a credit or debit card is any material or component used in the fabrication of credit or debit cards which, by virtue of such element's chemical or physical composition, color or design, is unique to the credit or debit cards issued by a particular issuer or group of issuers utilizing a common distinctive element or elements in credit or debit cards issued by all members of such group.

(2) A person other than the cardholder or issuer who possesses two (2) or more incomplete credit or debit cards is presumed to possess the same without the consent of the issuer and with the intent to complete them.

Section 60. KRS 434.690 is amended to read as follows:

(1) A person who receives money, goods, services or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of a ***Class A*** misdemeanor [~~and is subject to the penalties set forth in subsection (1) of KRS 434.730~~], if the value of all money, goods, services and other things of value received in violation of this section does not exceed one hundred dollars ($100) in any six-month period; and is guilty of a ***Class D*** felony [~~and is subject to the penalties set forth in subsection (2) of KRS 434.730~~], if such value exceeds one hundred dollars ($100) in any six-month period.

(2) A person who possesses three (3) or more tickets for airline, railroad, steamship or other transportation service, which tickets were obtained by the use of a stolen or forged credit or debit card is presumed to know that such tickets were so obtained.

Section 61. KRS 434.730 is amended to read as follows:

(1) A person who has violated KRS 434.590 shall be ***guilty of a Class A misdemeanor*** [~~fined not more than one thousand dollars ($1,000) or imprisoned not more than one (1) year, or both~~].

(2) A person who has violated KRS 434.600 shall be ***guilty of a Class D felony*** [~~fined not more than three thousand dollars ($3,000) or confined in the penitentiary for not more than five (5) years, or both~~].

Section 62. KRS 436.026 is amended to read as follows:

Any person who [~~Whoever~~] shall sell, transfer, distribute or give away any live or viable aborted child or permits such child to be used for any form of experimentation shall be ***guilty of a Class B felony*** [~~imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years~~]. Nothing contained in this section shall be construed as prohibiting adoption or foster care proceedings pursuant to the provisions of the laws of the Commonwealth.

Section 63. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment, or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five ***thousand*** [~~hundred~~] dollars ***($5,000)***[~~($500)~~]; or

(b) For a Class B misdemeanor, ***one thousand*** [~~two hundred fifty~~] dollars ***($1,000)***[~~($250)~~]; or

(c) For a violation, ***five*** [~~two~~] hundred [~~fifty~~] dollars ***($500)***[~~($250)~~].

(3) This section shall apply to a corporation.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

The Committee Amendment No. 1 to **HB 20** is as follows:

Amend printed copy of **HB 20** on page 122, lines 25 and 26, to delete all brackets and strikethroughs, and to delete all underlined material; and

on page 123, lines 1 through 4, to delete all brackets and strikethroughs, and to delete all underlined material; and

on page 123, line 5, following "shall" to add "***not***".

The Committee Amendment No. 2 to **HB 20** is as follows:

Amend printed copy of **HB 20** on page 16, line 8, to delete "***C***" and to insert in lieu thereof "***D***"; and

on page 16, line 24, to delete "***C***" and to insert in lieu thereof "***D***"; and

on page 20, line 9, to delete "***C***" and to insert in lieu thereof "***D***"; and

on page 44, line 26, to delete the same and to insert in lieu thereof "***for the first offense and a Class D felony for each subsequent offense***" and on page 45, lines 1 and 2, to delete the same; and

on page 45, line 3, to delete "***felony***"; and

HB 46, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the sentencing court for such privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Cabinet for Human Resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section, but for tax purposes they are the income of the prisoner.

(4) Every prisoner gainfully employed is liable for the cost of his board in the jail, at a reasonable amount, not to exceed ***forty*** [~~ten~~] dollars ***($40)*** [~~($10)~~] per day, established by the fiscal court ***of a county or the urban county council if an urban county government***. If he defaults his privilege under this section is automatically forfeited. All moneys shall be collected by the District Court and paid to the county treasury for use on the jail as provided in KRS 441.006. The fiscal court ***of a county or the urban county council if an urban county government*** may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that such costs be repaid by the prisoner.

(5) Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the District Court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. Such order shall remain in force until rescinded by the District Court.

(7) The corrections cabinet shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities and obligations vested herein in the Corrections Cabinet shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

HB 132, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order, or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) ***"Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.***

(3) "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V.

(4) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. A controlled substance;

2. Any substance for which there is an approved new drug application;

3. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

4. Any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

(5)[~~(3)~~] "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trade mark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6)[~~(4)~~] "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(7)[~~(5)~~] "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(8)[~~(6)~~] "Drug" means (a) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) substances intended for use in the diagnosis, care, mitigation, treatment or prevention of disease in man or animals; (c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (d) substances intended for use as a component of any article specified in this subsection. It does not include devices or their components, parts, or accessories.

(9)[~~(7)~~] "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(10) "Isomer" means the optical isomer, except used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(11)[~~(8)~~] "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale, or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(12)[~~(9)~~] "Marijuana" means all parts of the plant cannabis ***sp.*** [~~sativa L.~~], whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin ***or any compound, mixture, or preparation which contains any quantity of these substances.*** [~~It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.~~]

(13)[~~(10)~~] "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection ***(13)***[~~(10)~~](a) of this section, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, ***except coca leaves and extracts of coca leaves from which cocaine, ecogonine, and derivatives of ecogonine or their salts have been removed*** [~~and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine~~].

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(f) Ecogonine, its derivatives, their salts, isomers, and salts of isomers.

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) through (f).

(14)[~~(11)~~] "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(15)[~~(12)~~] "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(16)[~~(13)~~] "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17)[~~(14)~~] "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(18)[~~(15)~~] "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(19)[~~(16)~~] "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(20)[~~(17)~~] "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(21)[~~(18)~~] "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(22) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;

3. Delta 3, 4 cis or trans tetrahydrocannabinols, and its optical isomers.

(23)[~~(19)~~] "Traffic" means to manufacture, ***distribute, dispense,*** sell, transfer or possess with intent to ***manufacture, distribute, dispense, or*** sell a controlled substance.

(24)[~~(20)~~] "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(25)[~~(21)~~] "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to animal owned by him or by a member of his household.

Section 2. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule I:

(1) Any ***material, compound, mixture, or preparation which contains any quantity*** of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetylebutyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxpethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any ***material, compound, mixture, or preparation which contains any quantity*** of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine;

Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Phoclodine; Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxy amphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-trimethoxy amphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxylamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine.

Section 3. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the cabinet for human resources the controlled substances listed in this section are included in schedule II:

(1) Any ***material, compound, mixture, or preparation which contains any quantity*** of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, ***including cocaine and ecogonine and their salts, isomers, derivatives and salts of isomers and derivatives,*** and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any ***material, compound, mixture, or preparation which contains any quantity*** of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A; 4-cyano-1-methyl-4-phenylpiperidine; Pethidine-Intermediate-B; ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C; 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

Section 4. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources the controlled substances listed in this section are included in schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

(2) Nalorphine.

(3) Pentazocine (parenteral or injectable form only).

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(i) The Cabinet for Human Resources may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

(a) ***Boldenone*** [~~Chorionic gonadotropin~~];

(b) Clostebol;

(c) Dehydrochlormethyltestosterone;

(d) ***Drostanolone;***

(e) Ethylestrenol;

(f)[~~(e)~~] Fluoxymesterone;

(g) Formebulone;

(h)[~~(f)~~] Mesterolone;

(i)[~~(g)~~] Methandienone;

(j)[~~(h)~~] ***Methandriol*** [~~Methandrostenolone~~];

(k)[~~(i)~~] Methenolone;

(l)[~~(j)~~] Methyltestosterone;

(m)[~~(k)~~] ***Mibolerone;***

(n) Nandrolone;

(o)[~~(l)~~] Norethandrolone;

(p)[~~(m)~~] Oxandrolone;

(q)[~~(n)~~] Oxymesterone;

(r)[~~(o)~~] Oxymetholone;

(s) Stanolone;

(t)[~~(p)~~] Stanozolol; [~~and~~]

(u) Testolactone;

(v)[~~(q)~~] Testosterone***; and***

(w) Trenbolone.

(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt or derivative thereof that is expressly intended for administration through implant to livestock or other non-human species, and that is approved by the United States Food and Drug Administration for such use.

Section 5. KRS 218A.140 is amended to read as follows:

(1) [~~No person shall traffic in any controlled substance except as authorized in this chapter.~~]

(2) [~~No person shall possess any controlled substance except as authorized in this chapter.~~

~~(3) No person shall dispense, prescribe, distribute, or administer any controlled substance except as authorized in this chapter.~~

~~(4)~~] (a) No person shall obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of a prescription, or by the concealment of a material fact, or by the use of a false name or the giving of a false address.

(b) No person shall willfully make a false statement regarding any prescription, order, report, or record required by this chapter.

(c) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.

(d) No person shall make or utter any false or forged prescription.

(e) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.

(3)[~~(5)~~] No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.

(4)[~~(6)~~] No person shall advertise through any media other than a professional or trade publication any controlled substance by either its "trade name" or by its generic or formulary name.

(5) Any person who violates any subsection of this section shall be guilty of a Class D felony for a first offense and a Class C felony for subsequent offenses.

[~~(7) No person shall knowingly prescribe, order, distribute, supply, or sell an anabolic steroid for:~~

~~(a) Enhancing performance in an exercise, sport, or game; or~~

~~(b) Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity.~~

~~(8) No person shall possess or use an anabolic steroid without a valid prescription or drug order issued by a practitioner authorized to issue such prescription or order.~~]

Section 6. KRS 218A.210 is amended to read as follows:

(1) A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed, by a practitioner or other person authorized under this chapter, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

(2) Violation of subsection (1) of this section is a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

Section 7. KRS 218A.350 is amended to read as follows:

(1) No person shall sell or transfer any substance, other than a controlled substance, with the representation or upon creation of an impression that the substance which is sold or transferred is a controlled substance.

(2) No person shall possess for sale or transfer any substance designed in any manner, including but not limited to design of the item or its container, markings, or color, to simulate a controlled substance.

(3) No person shall possess for sale or transfer any substance, not covered by subsection (2) of this section which is not a controlled substance with the representation or upon the creation of an impression that the substance held for sale or transfer is a controlled substance.

(4) No person shall manufacture, package, repackage, advertise, or mark any substance, which is not a controlled substance, in such a manner as to resemble a controlled substance, for the purpose of creating the impression that the substance is a controlled substance.

(5) For the purpose of determining whether this section has been violated, the Court or other authority shall include in its consideration the following:

(a) Whether the non-controlled substance was packaged in a manner normally used for the illegal sale of controlled substances;

(b) Whether the sale or attempted sale included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable value of the non-controlled substance.

(c) Whether the physical appearance of the non-controlled substance is substantially identical to that of a controlled substance.

(6) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the non-controlled substance to actually be a controlled [~~dangerous~~] substance.

(7) Any person who violates any of the provisions of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

Section 8. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(5) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Any person found guilty of possession of a controlled substance pursuant to Section 16 or 17 of this Act shall for a first offense, be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of treatment and rehabilitation not to exceed one (1) year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which such person is sentenced.

(3) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(7) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the Cabinet for Human Resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates; in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(8) For purposes of this chapter, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(9) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(10) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under the subsection and dismissal may occur only once with respect to any person.

SECTION 10. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Any person found guilty of possession of marijuana pursuant to Section 19 of this Act may be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(3) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(7) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V, or a controlled substance analogue in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) yards of any school building used primarily for classroom instruction shall be guilty of a Class D felony, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class C felony.

(b) For a second or subsequent offense be guilty of a Class B felony.

SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of trafficking in a controlled substance in the second degree when:

(a) He knowingly and unlawfully traffics in a controlled substance classified in Schedules I and II which is not a narcotic drug; or a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana; or

(b) He knowingly and unlawfully prescribes, orders, distributes, supplies, or sells an anabolic steroid for:

1. Enhancing performance in an exercise, sport, or game; or

2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class D felony.

(b) For a second or subsequent offense be guilty of a Class C felony.

SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of trafficking in a controlled substance in the third degree when he knowingly and unlawfully traffics in a controlled substance classified in Schedules IV or V.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class A misdemeanor.

(b) For a second or subsequent offense be guilty of a Class D felony.

SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Possession of a controlled substance in the first degree is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense be guilty of a Class C felony.

SECTION 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of a controlled substance in the second degree when he knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is not a narcotic drug; or, a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana.

(2) Possession of a controlled substance in the second degree is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of a controlled substance in the third degree when he knowingly and unlawfully possesses a controlled substance classified in Schedules IV or V.

(2) Possession of a controlled substance in the third degree is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

SECTION 18. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully traffics in marijuana.

(2) Trafficking in less than eight (8) ounces of marijuana is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

(3) Trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana is:

(a) For a first offense a Class D felony.

(b) For a second or subequent offense a Class C felony.

(4) Trafficking in five (5) or more pounds of marijuana is:

(a) For a first offense a Class C felony.

(b) For a second or subsequent offense a Class B felony.

(5) The unlawful possession by any person of eight (8) or more ounces of marijuana shall be prima facie evidence that the person possessed the marijuana with the intent to sell or transfer it.

SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of marijuana when he knowingly and unlawfully possesses marijuana.

(2) Possession of marijuana is a Class A misdemeanor.

SECTION 20. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of marijuana cultivation when he knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.

(2) Marijuana cultivation of five (5) or more plants of marijuana is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

(3) Marijuana cultivation of fewer than five (5) plants is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

(4) The planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie proof that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.

SECTION 21. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of selling marijuana to a minor when he, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of marijuana to any person under eighteen (18) years of age.

(2) Selling marijuana to a minor is a Class D felony unless a more severe penalty for trafficking in marijuana is applicable, in which case the higher penalty shall apply.

SECTION 22. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Any person who commits a criminal conspiracy as defined in KRS 506.040 to traffic in a controlled substance or a controlled substance analogue shall be subject to the same penalties for trafficking in that controlled substance or a controlled substance analogue as specified in this chapter.

Section 23. KRS 218A.310 is amended to read as follows:

This chapter [~~KRS 218A.010 to 218A.300 and 218A.990~~] may be cited as the Kentucky Controlled Substances Act of 1972.

Section 24. KRS 311.597 is amended to read as follows:

As used in KRS 311.595(8), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" shall include, but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any "controlled substance" as defined in KRS 218A.010[~~(2)~~]:

(a) With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose,

(b) With the intent to evade any law with respect to sale, use or disposition of such controlled substance(s),

(c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice, or

(d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards.

(2) Issues or publishes in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

(a) Any representation in which the licensee claims that he can cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value;

(b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice:

1. Other than that for which he holds a certificate or license granted by the board, or

2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or

3. Under a school or system which he professes to be self-taught.

(3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence or malpractice.

(4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American medical association or the code of ethics of the American osteopathic association. For the purposes of this subsection, actual injury to a patient need not be established.

(5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in KRS 311.606.

Section 25. KRS 506.040 is amended to read as follows:

(1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:

(a) Agrees with one or more persons that at least one of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or

(b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.

(2) Except as provided in ***a specific statute to the contrary*** [~~KRS 218A.990(17)~~], a criminal conspiracy is a:

(a) Class B felony when the object of the conspiratorial agreement is a Class A felony or capital offense;

(b) Class C felony when the object of the conspiratorial agreement is a Class B felony;

(c) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;

(d) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

Section 26. The following KRS section is repealed:

218A.990 Penalties.

The Committee Amendment No. 1 to **HB 132** is as follows:

Amend printed copy of **HB 132** on page 8, between lines 1 and 2, to add the following:

"***(21) ''Second or subsequent offense'' means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a possession offense shall be treated as a prior offense only when the subsequent offense is a possession offense.***"

and on page 8, line 2, to delete "***(21)***" and to insert in lieu thereof "***(22)***";

and on page 8, line 5, to delete "***(22)***" and to insert in lieu thereof "***(23)***";

and on page 8, line 17, to delete "***(23)***" and to insert in lieu thereof "***(24)***";

and on page 8, line 21, to delete "***(24)***" and to insert in lieu thereof "***(25)***";

and on page 8, line 25, to delete "***(25)***" and to insert in lieu thereof "***(26)***";

and on page 17, lines 12 - 14, to delete the brackets and strikethroughs;

and on page 17, line 15, to place a bracket "[" before "(4)";

and on page 26, line 3, following "***by***" to add "***order of***";

and on page 27, lines 19 through 24, to delete the same;

and on page 27, line 25, to delete "***(9)***" and to insert in lieu thereof "***(8)***";

and on page 28, line 3, to delete "***(10)***" and to insert in lieu thereof "***(9)***";

and on page 29, line 25, following "***by***" to add "***order of***";

and on page 33, line 9, to delete the "***a***" at the end of the line and to insert in lieu thereof "***A***";

and on page 33, line 24, to delete "***be guilty of***";

and on page 36, line 16, to delete "***proof***" and to insert in lieu thereof "***evidence***".

Representative Noe moved that the following Bills be withdrawn: **HB 76**, **HB 286**. Agreed.

Representative K. Harper moved the adoption of the following **HR 57**:

HR 57, A RESOLUTION in loving memory and honor of Ben Bernstein.

With deepest respect, we pay homage and tribute to Ben Bernstein.

WHEREAS, Ben Bernstein, a native of Cincinnati, Ohio, was born on January 25, 1921, and crossed these earthly bounds on January 28, 1992; and

WHEREAS, Ben Bernstein was ever mindful of the needs and desires of his community, and while building a restaurant empire on the Ohio River, he contributed highly to the rebirth of downtown Covington; and

WHEREAS, among his many business accomplishments, Ben Bernstein owned the Mike Fink floating restaurant noted for its three-star rating in Mobile Travel Guide, the Ben Bernstein Riverboats in Covington, El Greco Restaurant in Southgate, Crockett's River Cafe in Newport, and the Kentucky and Ohio franchises of T.G.I. Fridays and Pizza Time Theatre; and

WHEREAS, Ben Bernstein was compassionate toward his fellow man during times of need by furnishing them jobs, helping financially and donating food; and

WHEREAS, a reception was given in his honor in May, 1991, declaring him a gentle giant who changed the landscape of the region and as a visionary and risk-taker; and

WHEREAS, Ben Bernstein served his country with pride during World War II; and

WHEREAS, Ben Bernstein was the loving husband of Shirley Bernstein; devoted father to Alan and Jim Bernstein and Linda Bernstein Peroff; and loving grandfather to eight grandchildren; and

WHEREAS, the passing of Ben Bernstein has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its most profound sense of sorrow upon the passing of Ben Bernstein, and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, Tuesday, January 28, 1992, it does so in loving memory and honor of Ben Bernstein.

Section 3. That the Clerk of the House is directed to transmit five copies of this Resolution to Mrs. Shirley Bernstein, 425 Torrence Court, Cincinnati, Ohio 45202.

HR 57 was adopted by voice vote.

Representative K. Harper moved that a call of the roll be taken to show co-sponsors of **HR 57.**

On the roll call the vote was yeas 74—Ackerson, Altman, Ark, Arnold, Ballard, Blandford, Bowling, Bronger, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jones, Kerr, Lear, LeMaster, Lile, Little, Long, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Sanders, Sheehan, B. Smith, T. Smith, Strong, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Farley moved the adoption of the following Legislative Citation No. 9. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Richard L. VanHoose for the time and effort you devoted to Paul Blazer High School students. Through your instruction, these students were able to successfully complete the American Heart Association's Cardiopulmonary Resuscitation and Emergency Cardiac Care course. The knowledge and skills that the students achieved through this course are indeed valuable and may prove to be life saving.

This prestigious body joins Representative Don Farley in recognizing you for your efforts. We extend to you our very best wishes for future success.

Representative Crupper moved the adoption of the following **HR 54**:

HR 54, A RESOLUTION adjourning in loving memory and honor of Carl W. Webster, educator.

With deepest respect, we pay homage and tribute to Carl W. Webster.

WHEREAS, Carl W. Webster was prematurely taken from us at age fifty-four and crossed these earthly bounds on January 2, 1992; and

WHEREAS, the highlight of Carl W. Webster's long career in education was when he returned last year to work as guidance counselor at Dry Ridge Elementary School; and

WHEREAS, Carl W. Webster had a "big heart for everyone, especially children," according to his wife, Betty Howe Webster; and

WHEREAS, Carl W. Webster served on the Board of Mental Health for Northern Kentucky and the Grant County Hospital Board, was past president of the Dry Ridge Kiwanis and State Principals Association, and was principal of Grant County High School from 1970 to 1981;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby express its profound sense of loss upon the passing of Carl W. Webster and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day it does so in loving memory of Carl W. Webster.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Betty H. Webster, Dry Ridge Elementary School, Dry Ridge, Kentucky.

HR 54 was adopted by voice vote.

Representative Overstreet moved that the rules be suspended to withdraw the following Bill: **HB 173**. Agreed.

Representative Lewis moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that he be recorded as voting "yea" on **HB 147**. Agreed.

Representative Deskins moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HJR 46, HB 50, HB 19, HB 128, HB 4, HB 27, HB 29, HB 136, HB 3, HB 2, HB 234, HB 265**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 68, Representative Collins; **HB 88**, Representative Ackerson; **HB 114**, Representative Wayne; **HB 179**, Representative Ackerson; **HB 198**, Representative Mullinix; **HB 239**, Representative Ackerson; **HB 258**, Representative Ackerson; **HCR 13**, Representatives Farrow, Palumbo, Strong.

Announcements

The following meetings were announced:

Health and Welfare, upon adjournment January 28, 1992.

Counties and Special Districts, 8:30 a.m., January 29, 1992.

State Government, February 6, 1992.

Transportation, 15 minutes upon adjournment, January 28, 1992.

The following meetings were cancelled:

Education, January 29, 1992.

Economic Development, January 29, 1992.

State Government, January 29, 1992.

Labor and Industry, January 29, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Wednesday, January 29, 1992.

On the roll call the vote was yeas 85—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Johnson, Jones, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 8—Bronger, Deskins, Hatcher, Heleringer, Keith, LeMaster, Lile, Richardson.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 29, 1992

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Gregory, Heleringer, R. Smith and Jensen.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 28,1992 be dispensed with and the same approved. Agreed.

Representative Palumbo moved that the rules be suspended to allow floor privileges to the Bryan Station High School Cheerleaders and to introduce and act upon a Resolution. Agreed.

HR 59, by Representative Palumbo: A RESOLUTION honoring the Bryan Station High School Girls Cheerleading Squad and Coach Judy Lowry.

Representative Palumbo moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION honoring the Bryan Station High School Girls Cheerleading Squad and Coach Judy Lowry.

WHEREAS, the 1992 National Cheerleading Championship competition was held in Dallas, Texas, on December 27 and 28, 1991; and

WHEREAS, the National Cheerleading Championship competition is sponsored by the National Cheerleading Association; and

WHEREAS, at this distinguished competition, the Bryan Station High School Girls Cheerleading Squad claimed the 1992 National Cheerleading Champions for Large Varsity Squads; and

WHEREAS, the Bryan Station High School Girls Cheerleading Squad consists of seventeen girls; and

WHEREAS, the Bryan Station High School Girls Cheerleading Squad triumphed over one hundred sixty teams in their division of large varsity squads to win this national competition; and

WHEREAS, when the Bryan Station High School Girls Cheerleading Squad returned home on December 29, 1991, they were greeted by 250 impassioned fans at Bluegrass Airport along with a pep band playing the fight song; and

WHEREAS, the Bryan Station High School Girls Cheerleading Squad have shown great determination, skill and spirit; and

WHEREAS, Coach Judy Lowry must be recognized for her genius as cheerleading coach; and

WHEREAS, the cheerleaders have exemplified the school motto, Animo et Fide, which means courage and faith, and would make proud the pioneers who bravely defended Bryan's Station Springs and Fort in a long seige against the British and Indians in 1782; and

WHEREAS, this accomplishment provides the opportunity for Bryan Station High School, the "pride of the north side," to add another honor to the extensive list of awards achieved by the school and its students; and

WHEREAS, the Defender cheerleaders, as they come home with this unprecedented victory for Bryan Station High School, also bring honor to the entire Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend the Bryan Station High School Girls Cheerleading Squad upon the occasion of claiming the 1992 National Cheerleading Champions for Large Varsity Squads on December 28, 1991.

Section 2. That the House of Representatives is proud to honor Coach Judy Lowry and squad members: Stephanie Creighton, Jennifer Sweeney, Kellie Fast, Katrina Bowman, Amy Wilson, Jenny Nichols, Crystal Cecil, Amber Williams, Robyn Bailey, Ryan Robertson, Jinger Bennett, Angie Drew, Carey Creech, Rhonda Johnson, Shana Givens, Karla Black, and Nicole McGuffey.

Section 3. That the Clerk of the House of Representatives is directed to transmit sufficient copies of this Resolution to Ms. Donna M. George, Principal, Bryan Station High School, 1866 Edgeworth Drive, Lexington, Kentucky 40505, for distribution to Coach Judy Lowry and squad members.

HR 59 was adopted by voice vote.

Representative Palumbo moved that a call of the roll be taken to show co-sponsors of **HR 59**.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Scorsone, Sheehan, B. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Senate Message

Announcing passage of **SB 28**, **SB 49**, **SB 74**, **SB 82**, **SB 99**, **SCR 5**, **HB 1**, **HB 11**, **HB 24** and **HB 26**. (Time: 10:10 a.m.)

Introduction of Bills and Resolutions

HB 361, by Representatives Hancock, Little, Pritchett, Yates and Worthington: AN ACT relating to highways.

HB 362, by Representatives LeMaster and Lear: AN ACT relating to motor vehicle insurance.

HCR 58, by Representative Worthington: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose for submission to the states an amendment to the U.S. Constitution, to require, with certain exceptions, that the federal budget be balanced, or in the alternative, to call a constitutional convention for the sole and exclusive purpose of proposing such an amendment.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 353**

Business Organizations and Professions: **HB 357**, **HB 360**, **HJR 55**

Counties and Special Districts: **HB 354**

Elections and Constitutional Amendments: **HB 355**

Health and Welfare: **HB 352**

Judiciary: **HB 351**

State Government: **HB 356**, **HB 358**

Transportation: **HB 359**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 307, HB 192, HB 335**

Education: **HB 235**

Business Organizations and Professions: **HB 314, HB 330, HB 340, HB 345, HB 357**

Cities: **HB 315, HB 339, SB 4, SB 12, SB 13**

Report of Committees

The Committee on Health and Welfare reported **HB 310**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 310, AN ACT relating to rural hospitals and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act:

(1) "Physician extender" means an advanced registered nurse practitioner, a certified nurse midwife, midlevel health-care practitioner, or a licensed physician assistant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 1996, all acute-care hospitals which meet at least one (1) of the following criteria shall have long-range strategic plans:

(a) A reported acute-care occupancy rate in the six (6) months prior to the effective date of this Act which is less than thirty percent (30%); or

(b) A reported acute-care average daily census in the six (6) months prior to the effective date of this Act which is less than twenty (20) patients.

(2) On request of the hospital, the University of Kentucky Center for Rural Health Excellence shall provide technical assistance to the hospital in the development of the long-range strategic plan on a shared-cost basis.

(3) The Governor shall designate an entity to serve as the Office of Rural Health for the Commonwealth. This office shall report to the Legislative Research Commission, no later than October 1, 1993, on the status of strategic-planning activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The licensure category of rural primary-care hospital, is hereby created.

(2) It shall be unlawful to operate or maintain a rural primary-care hospital without first obtaining a license from the Cabinet for Human Resources. An acute-care hospital converting to a rural primary-care hospital shall not require a certificate of need. New construction of a rural primary-care hospital shall require a certificate of need. No new rural primary care hospital facilities shall be constructed before July 15, 1994.

(3) A hospital licensed as a general acute-care hospital may be relicensed as a rural primary-care hospital if all of the following criteria are met:

(a) The facility is located at least twenty (20) miles, via road that is paved yearround, from the nearest licensed acute-care hospital providing twenty-four (24) emergency care;

(b) The facility has sixty (60) or fewer beds; and

(c) The facility is not in a county which is part of a standard metropolitan statistical area.

(4) A rural primary-care hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care with at least an emergency medical technician present, and a physician or physician extender on call.

(b) At least six (6) acute-care beds which shall be used for observation and treatment of acute-care conditions designated by the Cabinet for Human Resources. In no case shall patients remain in a rural primary-care hospital for more than ninety-six (96) hours; and

(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time or off-site contractual basis.

(5) A rural primary-care hospital may provide the following services:

(a) Dual-licensed beds, swing beds, or a distinct nursing facility;

(b) Surgery with the limits of the ninety-six (96) hour length of stay, designated conditions, and staff competency;

(c) Normal obstetrics within the limits of the ninety-six (96) hour length of stay and staff competency;

(d) Primary care;

(e) Adult day health care; and

(f) Respite care.

(6) A rural primary-care hospital shall provide the basic services required by subsection (4)(c) of this section twenty-four (24) hours a day when any of the acute-care beds are occupied. When none of the acute-care beds are occupied, an emergency medical technician shall be present, and a physician or physician extender shall be on call.

(7) The following staffing plan shall apply to a rural primary-care hospital:

(a) The medical staff shall have at least one (1) physician who shall serve as a medical director; and

(b) Physician extenders may admit patients and may treat patients within the limits of their licensure conditions. Physician extenders shall be supervised by a physician who is not required to be on site at all times. When the facility is occupied by a patient, a physician shall be on call within one (1) hour.

(8) A rural primary-care hospital shall have a written quality-assurance program. Quality assurance may be provided through a contractual arrangement.

(9) A rural primary-care hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the rural primary-care hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(10) An application for licensure as a rural primary-care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for Human Resources. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant.

(11) Physician extenders practicing within a rural primary-care hospital shall be authorized to issue prescriptions for refills of prescription drugs, from a limited drug formulary approved by the Kentucky Board of Family Health Providers, as part of a plan for the patient approved by the medical director of the rural primary-care hospital. A physician extender practicing within a rural primary-care hospital may issue a twenty-four (24) hour dose of a prescription drug in an emergency, from a limited drug formulary approved by the Kentucky Board of Family Health Providers, with subsequent doses provided by a licensed physician. This prescriptive authority is in addition to any other prescriptive authority provided by law to advanced registered nurse practitioners, physician assistants, or nurse midwives.

(12) The Cabinet for Human Resources shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a rural primary-care hospital.

(13) The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 4. Whereas twenty-six (26) rural hospitals in the Commonwealth have an average daily census of less than twenty (20) patients, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 310** is as follows:

HB 310, AN ACT relating to rural hospitals and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act:

(1) "Physician extender" means an advanced registered nurse practitioner, or a physician assistant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 1996, all acute-care hospitals which meet at least one (1) of the following criteria shall have long-range strategic plans:

(a) A reported acute-care occupancy rate in the six (6) months prior to the effective date of this Act which is less than thirty percent (30%); or

(b) A reported acute-care average daily census in the six (6) months prior to the effective date of this Act which is less than twenty (20) patients.

(2) On request of the hospital, the University of Kentucky Center for Rural Health Excellence shall provide technical assistance to the hospital in the development of the long-range strategic plan on a shared-cost basis.

(3) The Governor shall designate an entity to serve as the Office of Rural Health for the Commonwealth. This office shall report to the Legislative Research Commission, no later than October 1, 1993, on the status of strategic-planning activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The licensure category of rural primary-care hospital, is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a rural primary-care hospital without first obtaining a license from the Cabinet for Human Resources. An acute-care hospital converting to a rural primary-care hospital shall not require a certificate of need. New construction of a rural primary-care hospital shall require a certificate of need. No new rural primary care hospital facilities shall be constructed before July 15, 1994.

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a rural primary-care hospital if all of the following criteria are met:

(a) The facility is located at least twenty (20) miles, via road that is paved year-round, from the nearest licensed acute-care hospital providing twenty-four (24) emergency care;

(b) The facility has sixty (60) or fewer beds; and

(c) The facility is not in a county which is part of a standard metropolitan statistical area.

(4) A rural primary-care hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.

(b) At least six (6) acute-care beds which shall be used for observation and treatment of acute-care conditions designated by the Cabinet for Human Resources. In no case shall patients remain in a rural primary-care hospital for more than ninety-six (96) hours; and

(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day.

(5) A rural primary-care hospital may provide the following services:

(a) Dual-licensed beds, swing beds, or a distinct nursing facility, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled nursing facility;

(b) Surgery with the limits of the ninety-six (96) hour length of stay and designated conditions;

(c) Normal obstetrics within the limits of the ninety-six (96) hour length of stay;

(d) Primary care;

(e) Adult day health care; and

(f) Respite care.

(6) The following staffing plan shall apply to a rural primary-care hospital:

(a) The medical staff shall have at least one (1) physician who shall serve as a medical director; and

(b) Physician extenders may treat patients within the limits of their statutory scope of practice. Physician assistants shall be supervised by a physician who is not required to be on site at all times. When the facility is occupied by a patient, a physician shall be on call within one-half (1/2) hour.

(7) A rural primary-care hospital shall have a written quality-assurance program. Quality assurance may be provided through a contractual arrangement.

(8) A rural primary-care hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the rural primary-care hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(10) An application for licensure as a rural primary-care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for Human Resources. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant.

(11) The Cabinet for Human Resources shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a rural primary-care hospital.

(12) The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

An advanced registered nurse practitioner shall be considered as a "practitioner" as defined in KRS 217.015 and shall have the authority granted to a practitioner pursuant to KRS Chapter 217.

SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

An advanced registered nurse practitioner shall be considered as a "practitioner" as defined in KRS 218A.010 and shall have the authority granted to a practitioner pursuant to KRS Chapter 218A.

Section 6. Whereas twenty-six (26) rural hospitals in the Commonwealth have an average daily census of less than twenty (20) patients, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Transportation reported **SB 72**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 72, AN ACT relating to commercial driver's licenses, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281A.160 is amended to read as follows:

(1) The state police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.

(2) The state police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the state police but not less than ten (10) days after the applicant has filed his application.

(3) Notwithstanding subsection (1) of this section, the state police may authorize a person, including an agency of this or another state, an employer, a private driver training facility, a private institution, or a department, agency, or instrumentality of local government, to administer the knowledge or skills test specified by this section, provided:

(a) The test is the same which would otherwise be administered by the state; and

(b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.

(4) ***Applicants*** [~~No applicant~~] shall be permitted to take the knowledge or skills test for a particular class vehicle ***an unlimited number of times; however, no applicant may retest more than one (1) time in any twenty-four (24) hour period. Subject to the provisions of KRS 281A.150, a fee shall be charged for each test that is retaken as a result of a failing score*** [~~more than twice within any six (6) month period~~].

(5) Any applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(12) and shall receive his commercial driver's license with all endorsement and restrictions which were in effect at the time of suspension. Any applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.

Section 2. KRS 281A.150 is amended to read as follows:

(1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his commercial driver's license, he shall update his application and submit the appropriate fee to the circuit clerk.

(2) Each application for a commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed forty dollars ($40). The fee amount shall be based on the class or type of license, endorsement, restriction, or tests to be taken.

(3) Each application for a commercial driver's instruction permit shall be accompanied by a fee to be set by regulation of the cabinet not to exceed thirty-five dollars ($35).

(4) Each application for a change or addition in class or type of license, endorsement, or restriction shall be accompanied by a fee to be set by regulation of the cabinet not to exceed fifteen dollars ($15) for each change or addition.

(5) Each application for a duplicate commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed ten dollars ($10).

(6) Each application for a commercial driver's license renewal shall be accompanied by a fee to be set by regulation of the cabinet not to exceed thirty-five dollars ($35).

(7) Each application for a transfer of a commercial driver's license shall be accompanied by a fee to be set by regulation of the cabinet not to exceed sixty dollars ($60).

(8) Any person who applies for a Class B or C commercial driver's license with an "S" restriction shall be assessed a fee not to exceed twenty dollars ($20). Any person who applies for a Class B or C commercial driver's license with a "P" restriction who is employed by a mass transit authority created under the provisions of KRS Chapter 96A, a driver of a vehicle being operated under a non-profit bus certificate established pursuant to KRS 281.619, or a driver of a vehicle registered pursuant to KRS 186.050(6), shall be assessed or charged a fee not to exceed twenty dollars ($20).

(9) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.

(10) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection (11) of this section. The accounts shall not lapse but shall be continuing from year to year.

(11) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of State Police, except a fifty cent ($.50) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license permit and a three dollar ($3) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the Circuit Clerks and thereafter allocated to the general fund from issuance of a commercial driver's license.

(12) Any applicant who seeks reinstatement of his commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars ($50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his commercial driving privilege was withdrawn only as a result of the withdrawal of his privilege to drive a noncommercial motor vehicle.

(13) Any person who qualifies for a commercial driver's license under the provisions of KRS 281A.200 shall pay a fee not to exceed sixty-two dollars ($62).

(14) Any applicant who seeks to retest for the knowledge or skills test because of a failing score shall pay a fee to be set by regulation of the cabinet not to exceed twenty dollars ($20) for each test retaken.

Section 3. Whereas operators who are required to obtain a commercial driver's license must do so by April 1, 1992, and the continuation of a six (6) month waiting period would prevent many from obtaining a commercial driver's license by this date, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **SB 72** is as follows:

Amend printed copy of GA Copy of **SB 72** on page 4, line 4, after the word "exceed" by inserting the words "***twenty-five dollars ($25)***" and by inserting an opening bracket before the word "thirty-five", striking through the word "thirty-five"; and

On page 4, line 5, by striking through the word "dollars ($35)" and by inserting a closing bracket after "($35)".

The Committee on Counties and Special Districts reported **HB 300** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 300, AN ACT relating to funds for the care and maintenance of prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.206 is amended to read as follows:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:

(a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received;

(b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and

(c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.

(2) Payments of the state contribution for jail operating expenses shall be made monthly by the Corrections Cabinet to the county treasurer. The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in subsection (1) of this section.

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city, or another county for the incarceration of prisoners and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055, within twelve (12) months of the close of the fiscal year in which ***the*** [~~such~~] funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury.

(4) [~~In no event shall~~] A county ***shall not*** receive less than ***fifty*** [~~twenty-four~~] thousand dollars ***($50,000)*** [~~($24,000)~~] pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.

Calendar

HB 23, HB 94, HB 159, HB 237, HB 269, HB 257, HB 271, HB 287, HB 336, HB 20, HB 46 and **HB 132** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 204 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Rules in the Speaker's office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 20**, **HB 23**, **HB 46**, **HB 94**, **HB 132**, **HB 159**, **HB 237**, **HB 257**, **HB 269**, **HB 271**, **HB 287** and **HB 336** have been posted for passage in the Orders of the Day for February 3, 1992.

The Committee on Rules reported that the following Consent Bill has been posted for passage in the Regular Orders of the Day for February 3, 1992: **HB 204**

Orders of the Day

HB 215, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Committee Amendment No. 1 to **HB 215**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 215**. Agreed.

Representative Johnson moved that **HB 215**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 4. (See January 29, 1992 roll call on **HB 215** - Appendix.)

HB 215, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 215**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 13 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HCR 13** be adopted.

On the roll call the vote was: Yeas 92, Nays 0. (See January 29, 1992 roll call on **HCR 13** - Appendix.)

HCR 13 was adopted.

Representative Hancock moved that the vote by which **HCR 13** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 182, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Committee Substitute to **HB 182**. Agreed.

Representative Noe moved that **HB 182**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 49, Nays 38. (See January 29, 1992 roll call on **HB 182** - Appendix.)

HB 182, by way of Committee Substitute, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 182**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 116, with Committee Substitute and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 116**. Agreed.

Representative Burch moved that **HB 116**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See January 29, 1992 roll call on **HB 116** - Appendix.)

HB 116, by way of Committee Substitute, was passed.

Representative Burch moved the adoption of Floor Title Amendment to **HB 116**. Agreed; and the title was agreed to.

Representative Burch moved that the vote by which **HB 116**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 25, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Floor Amendment No. 3 to **HB 25**. Agreed.

Representative Callahan moved that **HB 25**, as amended, be passed.

Representative Keith moved that the rules be suspended to allow the filing of a Floor Amendment to **HB 25**.

The Speaker ruled that the motion to file a Floor Amendment to **HB 25** was out of order.

Representative J. Harper inquired if **HB 25** was mistitled.

The Speaker ruled that the bill is in order and the provisions are germane.

Representative Allen moved that **HB 25**, as amended, be laid on the Clerk's Desk.

On the roll call the vote was yeas 25—Allen, Altman, Bryant, Crupper, Deskins, Ford, Freibert, Gedling, Gee, J. Harper, Keith, Lile, Mullinix, Napier, Nunn, Overstreet, Reinhardt, Sanders, T. Smith, Strong, Toby, Todd, Turner, Walker, Zimmerman. Nays 56—Ackerson, Adkins, Ark, Arnold, Bentley, Blandford, Bowling, Bronger, Brown, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Cyrus, Donnermeyer, Farrow, Geveden, Gray, Hancock, K. Harper, Hatcher, Hourigan, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Long, Mack, Maggard, McElroy, Moberly, Nelson, Noe, Northup, Palumbo, Rapier, Richards, Ridley, Riggs, Riner, Scorsone, Sheehan, B. Smith, Stokes, Stumbo, Ward, Wayne, Williams, Worthington.

The motion that **HB 25**, as amended, be laid on the Clerk's Desk was rejected.

Representative Callahan moved that **HB 25**, as amended, be passed.

On the roll call on the passage of **HB 25** as amended the vote was: Yeas 44, Nays 41. (See January 29, 1992 roll call on **HB 25** - Appendix.)

HB 25, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 25**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Wayne moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 60, by Representatives Wayne and Riner: A RESOLUTION in loving memory and honor of little Miss Stevie Michelle Nutgrass and commending the community members of St. Therese Church, neighbors, and all others that gave of their support to the Nutgrass family.

Representative Wayne moved the adoption of the following **HR 60**:

HR 60, A RESOLUTION in loving memory and honor of little Miss Stevie Michelle Nutgrass and commending the community members of St. Therese Church, neighbors, and all others that gave of their support to the Nutgrass family.

Ere sin could blight, or sorrow fade, death came with friendly care; the opening but to heaven conveyed, and bade it blossom there.

WHEREAS, Stevie Michelle Nutgrass was born October 1, 1988, on the feast day of St. Therese, a Roman

Catholic Carmelite nun known as the Little Flower. The Little Flower died young, at 24, promising to spread flowers from heaven upon all who prayed to her for help; and

WHEREAS, Stevie Michelle Nutgrass traversed these earthly bounds on January 27, 1992, at the ripening young age of three; and

WHEREAS, friendship abates misery by doubling our joy and dividing our grief, and sharing the short life span of Stevie Michelle Nutgrass and the prolonged illness she suffered, friendship flourished from the community, members of St. Therese Church, neighbors, and many others leaving warm and affectionate impressions on the Nutgrass family, a demonstration of God's love; and

WHEREAS, real friendship is shown in times of trouble; and

WHEREAS, the community, members of St. Therese Church, neighbors, and many others showed their love for Stevie Michelle Nutgrass; and

WHEREAS, the perfect family's highest and most complete realization is found where enlightened christianity prevails; where husband and wife are one in honor, influence and affection; and where children are a common bond of care and love; and

WHEREAS, Stevie Michelle Nutgrass was the loving daughter of Steve and Mary Ann Nutgrass; the adored sister of Sheri Nutgrass, Nicole Nutgrass, Cindy Nutgrass, and Corey Nutgrass; and loving granddaughter of Thomas Eugene Nutgrass, Juanita Willett, and Jerome and Raymond Weiter; and great granddaughter to Mamie Nutgrass and Alma Grant; and

WHEREAS, the passing of Stevie Michelle Nutgrass has left a void of love and innocence that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its most profound sense of sorrow upon the passing of little Miss Stevie Michelle Nutgrass, and does extend to her family and friends its most heartfelt sympathy.

Section 2. That this honorable body commends the community, members of St. Therese Church, neighbors, friends, and others that supported Stevie Michelle Nutgrass and her parents during their times of need.

Section 3. That the Clerk of the House of Representatives is directed to transmit ten copies of this Resolution to Representative Jim Wayne for distribution to the family of Stevie Michelle Nutgrass.

HR 60 was adopted by voice vote.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 1**, **HB 11**, **HB 24** and **HB 26** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:58 a.m.)

Motions, Petitions and Communications (Continued)

Representative Noe moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION recognizing American Counseling Week and Kentucky Counseling Week.

WHEREAS, February 2 through 8, 1992, has been declared American Counseling Week and Kentucky Counseling Week; and

WHEREAS, this honorable body strongly supports counselors in schools and agencies in their constant endeavor to make better citizens of our children; and

WHEREAS, counselors form a professional family across this Commonwealth and this nation in their role as child advocates; and

WHEREAS, counselors are actively involved in the implementation of the Kentucky Education Reform Act; and

WHEREAS, counselors believe that all children and youth can learn; and

WHEREAS, counselors believe that all children need a lifelong love for and pursuit of learning;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes America Counseling Week and Kentucky Counseling Week.

Section 2. That this honorable body commends counselors in Kentucky for their dedication and untiring efforts on behalf of the children and families of this great Commonwealth.

Section 3. That this honorable body urges counselors to continue their active involvement with the Kentucky Education Reform Act.

Section 4. That the Clerk of the House is directed to transmit copies of this Resolution to Dr. Thomas C. Boysen, Commissioner of Education, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601, and to Dr. Bill Braden, Executive Director, Kentucky Association for Counseling and Development, 622 Timothy Drive, Frankfort, Kentucky 40601.

HR 56 was adopted by voice vote.

Representative Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Turner moved that he be recorded as voting "nay" on **HB 25**. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "yea" on **HB 88**. Agreed.

Representative Kerr moved that the rules be suspended to withdraw the following Bill: **HB 37**. Agreed.

Representative Gray moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 61, by Representative Gray: A RESOLUTION honoring Dr. Joe McMillan for his outstanding leadership in the African American community.

Representative Gray moved the adoption of the following **HR 61**:

HR 61, A RESOLUTION honoring Dr. Joe McMillan for his outstanding leadership in the African American community.

WHEREAS, Dr. Joe McMillan, in trying times, has been an inspiration to the leaders of the African American community and many others; and

WHEREAS, Dr. Joe McMillan has been, and continues to be, an example of strong leadership and devotion to youth in the African American community; and

WHEREAS, the precinct captains and group captains in the 42nd legislative district esteem it an honor and privilege to know Dr. Joe McMillan;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body expresses its most sincere gratitude to Dr. Joe McMillan for his dedication in serving the citizens of our great Commonwealth.

Section 2. That this honorable body proudly honors Dr. Joe McMillan for his outstanding accomplishments for a better quality of life for the African American and the community as a whole.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Joe McMillan, 10113 Falling Tree Way, Louisville, Kentucky 40223.

HR 61 was adopted by voice vote.

Representative Gray moved the adoption of the following Legislative Citation No. 10. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Willie Mae Simms for your tireless efforts in serving the city of Louisville. The time and energy you have devoted to your community is noteworthy. Your actions demonstrate leadership and humanitarian qualities that serve as role models for our youth.

This prestigious body joins Representative Leonard Gray in recognizing you for your dedication and accomplishments. We extend to you our very best wishes.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 182**. Agreed.

Representative Richardson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richardson moved that he be recorded as voting "yea" on **HB 25**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 25**. Agreed.

Representative J. Harper moved that the rules be suspended to withdraw the following Bill: **HB 118**. Agreed.

Representative Maggard moved that the rules be suspended to withdraw the following Bill: **HB 166**. **Agreed.**

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 363, by Representatives Hancock, Morris, Bruce and Barrows: AN ACT relating to retirement.

HB 364, by Representatives Hancock, Morris, Bruce and Barrows: AN ACT relating to retirement.

HB 365, by Representatives Bentley, Mason, Nunn, Sanders, Strong, Maggard, Keith, Turner, Allen, Gedling, Collins, Bruce, Deskins and Cyrus: AN ACT relating to expenditures for public safety programs and making an appropriation therefor.

HB 366, by Representative Scorsone: AN ACT relating to the issuance of citations.

HB 367, by Representative Ward: AN ACT relating to public employee insurance and retirement.

HB 368, by Representative Ward: AN ACT relating to public records, reports, and the persons making them.

HB 369, by Representatives T. Smith, Bowling and Strong: AN ACT relating to solid waste landfills.

HR 62, by Representative Ward: A RESOLUTION honoring the Louisville Division of The Kroger Company upon winning the first annual Presidential Citation for its environmental achievements.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **SB 31**

Counties and Special Districts: **HB 331**

Natural Resources and Environmental Protection: **HB 58, HB 176, HB 178, HB 228, HB 264, HB 342**

The following members filed requests to have their names added as co-sponosrs of Bills:

HB 181, Representative T. Smith; **HB 235**, Representative Barrows; **HB 335**, Representative Casebier.

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 289, Representatives Altman, Bryant; **HB 26**, Representative Lyne.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 3, 1992.

On the roll call the vote was yeas 83—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Richardson, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Bronger, Casebier, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 3, 1992

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, R. Smith and Stokes.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of January 29, 1992 be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 1, **HB 11**, **HB 24** and **HB 26** were delivered to the Senate and signed by the President. Delivered to the Governor on January 29, 1992 at 2:16 p.m.

Introduction of Bills and Resolutions

HB 370, by Representative Castleman: AN ACT relating to braille instruction.

HB 371, by Representatives Mack, Mason, Burch and Hatcher: AN ACT relating to boarding homes.

HB 372, by Representative Farrow: AN ACT relating to the establishment of a birth defects registry.

HB 373, by Representatives Cyrus and Farley: AN ACT relating to individual income tax.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 365**

Banking and Insurance: **HB 362**

Counties and Special Districts: **SB 28**

Education: **HB 367, SB 74, SB 82**

Elections and Constitutional Amendments: **HCR 58**

Judiciary: **HB 368, HB 366**

Natural Resources and Environmental Protection: **HB 369**

State Government: **HB 363, HB 364, SB 49, SB 99, SCR 5**

Transportation: **HB 361**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 93, HB 323**

Cities: **HB 212**

Elections and Constitutional Amendments: **HB 199, HB 290**

Calendar

HB 310, **SB 72** and **HB 300** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 204 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 204** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 3, 1992 roll call on **HB 204** - Appendix.)

HB 204 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 204** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 257**, by Representative Long:

Amend printed copy of **HB 257** on page 1, line 10, by deleting "***subsection***" and inserting in lieu thereof "***subsections***"; and

On page 1, line 10, after "*(3)*" by inserting "***and (4)***"; and

On page 2, after line 12 by adding the following: "***(4) Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.***"

Orders of the Day (Continued)

HB 20, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 20**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 2 to **HB 20**. Agreed.

Representative Lear moved that **HB 20**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 4. (See February 3, 1992 roll call on **HB 20** - Appendix.)

HB 20, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 20**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 269, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Floor Amendment No. 1 to **HB 269**. Agreed.

Representative Yates moved that **HB 269**, as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 19. (See February 3, 1992 roll call on **HB 269** - Appendix.)

HB 269, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 269**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 159, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 159**. Agreed.

Representative Burch moved that **HB 159**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 68, Nays 21. (See February 3, 1992 roll call on **HB 159** - Appendix.)

HB 159, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 159**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 271**, by Representative Long:

Amend printed copy of **HB 271** on page 3, line 9, by bracketing and striking through the second use of "or"; and

On page 3, line 10, by deleting "***citation or safety***"; and

On page 3, line 10, by deleting the brackets around and strikethroughs from "auxiliary police"; and

On page 3, line 11, by deleting "***Sections 1 and 2 of this Act***"; and

On page 3, lines 11-12, by deleting the brackets around and strikethroughs from "KRS 95.445"; and

On page 3, line 12, after "95.445," by inserting the following: "***or any citation or safety officer appointed pursuant to Sections 1 and 2 of this Act,***"; and

On page 4, line 1, by bracketing and striking through the word "or"; and

On page 4, line 1, by deleting "***citation or safety***"; and

On page 4, lines 1-2, by deleting the brackets around and strikethroughs from "auxiliary police"; and

On page 4, lines 2-3, by deleting "***Sections 1 and 2 of this Act***"; and

On page 4, line 3, by deleting the brackets around and strikethroughs from "KRS 95.445"; and

On page 4, line 3, after "95.445," by inserting the following: "***or any citation or safety officer appointed pursuant to Sections 1 and 2 of this Act,***"; and

On page 7, line 12, by deleting the brackets around and strikethroughs from ", 95.445,"; and

On page 8, lines 11-12, by deleting them in their entirety.

Orders of the Day (Continued)

HB 287 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 287** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 3, 1992 roll call on **HB 287** - Appendix.)

HB 287 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 287** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 336 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **HB 336** be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See February 3, 1992 roll call on **HB 336** - Appendix.)

HB 336 was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 336** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 237, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 237**. Agreed.

Representative Callahan moved that **HB 237**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 37, Nays 53. (See February 3, 1992 roll call on **HB 237** - Appendix.)

HB 237, by way of Committee Substitute, was rejected.

Representative Stumbo moved that the vote by which **HB 237**, by way of Committee Substitute, was rejected be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to allow floor privileges to former Representative Wayne Freeman. Agreed.

Former Representative Freeman briefly addressed the House.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration, and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 374, by Representative Little: AN ACT relating to mining.

HB 375, by Representative Noe: AN ACT relating to education.

HB 376, by Representative P. Clark: AN ACT relating to retirement.

HB 377, by Representative Clarke: AN ACT relating to Revenue and Taxation.

HB 378, by Representative Geveden: AN ACT relating to higher education.

HB 379, by Representative Ridley: AN ACT relating to cable television.

HB 380, by Representative Lear: AN ACT relating to drugs.

HR 63, by Representatives Donnermeyer, Callahan, Yates, Johnson, Kerr, Worthington, Sheehan, Hancock, P. Clark, Heleringer, Ford, Toby, Sanders, Williams, Napier, K. Harper, Bronger, Reinhardt, Bryant, Altman, Strong, Farley, Turner, Gee, Noland, Todd, T. Smith, Allen, J. Harper, Mullinix, Walker, Ackerson, Casebier and R. Smith: A RESOLUTION commemorating the nineteenth anniversary of the infamous U. S. Supreme Court decision in ***Roe v. Wade***, legalizing the abortion of unborn children and recognizing the struggle and valiant efforts of individuals and organizations such as the Kentucky Right to Life Association to assure the preservation of the rights of our unborn children.

HCR 64, by Representatives Hancock, Wayne, Riggs and Little: A CONCURRENT RESOLUTION establishing a Rapid Rail Transportation Planning Commission.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 316**

State Government: **HB 133, HB 220, HB 165, HB 255, HB 344, HB 358**

Motions, Petitions and Communications (Continued)

Representative Farrow moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farrow moved that he be recorded as voting "nay" on **HB 31**. Agreed.

Representative Heleringer moved that the rules be suspended to withdraw the following Bill: **HB 155**. Agreed.

Representative Morris moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Morris moved that he be recorded as voting "yea" on **HB 179**. Agreed.

Representative Lewis moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that his vote be changed from "yea" to "nay" on **HB 159**. Agreed.

Representative Castleman moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Castleman moved the adoption of the following Legislative Citation No. 11. Agreed.

The House of Representatives of the Commonwealth hereby recognizes and commends Jenny Jackson, Nicki Stewart, and Missy Payne for your tireless efforts, dedication, and hard work to charter the Graves County Young Democrats Club. Your involvement to establish this organization demonstrates a deep interest in and appreciation of the political process and the goals accomplished through constituent participation in this process.

This prestigious body joins Representative Robbie Castleman in commending you for your efforts. We extend our best wishes for continued success in future endeavors.

The following members filed requests to have their names added as co-sponsors of Bills: **HB 20**, Representative Ackerson; **HB 204**, Representative Ackerson; **HB 208**, Representative Lile; **HB 336**, Representative Farley; **HB 338**, Representative Lile.

The following member filed a request to have her name withdrawn as co-sponsor of the following Bill: **HB 289**, Representative Bryant.

Announcements

The following meetings were announced:

Cities, 8:30 a.m., February 4, 1992, Room 131.

Agriculture and Small Business, 9:00 a.m., February 4, 1992, Room 129.

Committee on Rules upon adjournment today.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 4, 1992.

On the roll call the vote was yeas 91—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Hatcher, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 4, 1992

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 3, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 50** and **SB 79**. (Time: 2:05 p.m.)

Floor Amendments

Floor Amendment No. 1 to **HB 66**, by Representative long:

Amend printed copy of **HB 66** on page 20, lines 19 through 22, by deleting them in their entirety; and

On page 20, line 23, by deleting "***(5) Motor***" and inserting "***(4) All motor***"; and

On page 20, on lines 23 and 24, by deleting "***not considered commercial vehicles pursuant to KRS 186.050,***"; and

On page 21, line 3, by deleting "***(6)***" and inserting "***(5)***"; and

On page 21, line 8, by deleting "***(7)***" and inserting "***(6)***"; and

On page 21, line 18, by deleting "***(8)***" and inserting "***(7)***".

Representative Ballard moved that the rules be suspended to introduce guests, introduce and act upon a Resolution and to act upon a Legislative Citation. Agreed.

HR 65, by Representative Ballard: A RESOLUTION adjourning in honor of the Madisonville-North Hopkins High School Lady maroons golf team.

Representative Ballard moved the adoption of the following **HR 65**:

HR 65, A RESOLUTION adjourning in honor of the Madisonville-North Hopkins High School Lady Maroons golf team.

WHEREAS, golf is an individual as well as a team sport; and

WHEREAS, as a team, the Madisonville-North Hopkins Lady Maroons won the Girls Golf High School State Championship at the Elizabethtown Country Club for the second year in a row; and

WHEREAS, the Lady Maroons compiled an eleven and one win/loss record enroute to the playoffs; and

WHEREAS, they journied far and wide throughout our great Commonwealth to play in matches and invitational tournaments thereby honing their considerable talents into competitive trim; and

WHEREAS, they achieved the championship by dint of dedication and teamwork, and with a reputation for good sportsmanship;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate the Madisonville-North Hopkins High School Lady Maroons golf team for winning their second consecutive state championship, and adjourns this day in their honor.

Section 2. That the House recognizes and praises the singular efforts of golfers Jill Smiley, Kelly Green, Mary Ellen Leasure, Emily Thomas and the guidance that made them a winning team provided by Coach Teresa Ashby.

Section 3. That the House acknowledges that the success enjoyed by the Lady Maroons would not have been possible without the support of their parents, school board chairman Shirley Hedges, superintendent John D. McClearn and principal James Lee Stevens,.

Section 4. That the Clerk of the House of Representatives is directed to transmit eight copies of this Resolution to Teresa Ashby, Madisonville-North Hopkins High School, 4515 Hanson Road, Madisonville, Kentucky 42431.

HR 65 was adopted by voice vote.

Representative Ballard moved that a call of the roll be taken to show co-sponsors of **HR 65**.

On the roll the vote was yeas 89-Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Jensen, Jones, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Ballard moved the adoption of the following Legislative Citation No. 12. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Kelly Green, Mary Ellen Leasure, Jill Smiley, Emily Thomas, and Coach Teresa Ashby and the Madisonville-North Hopkins High School ladies golf team upon claiming the Girls High School State Championship, for the second consecutive year. Your dedication and hard work allowed the Lady Maroons to post an 11-1 season record. Throughout the playoffs, team members demonstrated true team spirit, championship character and brought pride to the community and the school.

This prestigious body joins Representative Eddie Ballard in applauding the Lady Maroons golf team for your outstanding season and many accomplishments.

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 66**, by Representative P. Clark:

Amend printed copy of **HB 66** on page 21, after line 2, by inserting "***(6) The provisions of subsections (4) and (5) shall apply only to motor vehicles assembled in the United States that have seventy percent (70%) of their components made in the United States.***"; and

On page 21, line 3, by deleting "*(6)*" and inserting "*(7)*"; and

On page 21, line 8, by deleting "*(7)*" and inserting "*(8)*"; and

On page 21, line 18, by deleting "*(8)*" and inserting "*(9)*".

Floor Amendment No. 2 to **HB 66**, by Representative Long:

Amend printed copy of **HB 66** on page 20, lines 19-26, by deleting them in their entirety; and

On page 21, lines 1 and 2, by deleting them in their entirety; and

On page 21, line 3, by deleting "*(6)*" and inserting "*(4)*"; and

On page 21, line 8, by deleting "*(7)*" and inserting "*(5)*"; and

On page 21, line 18, by deleting "*(8)*" and inserting "*(6)*".

Introduction of Bills and Resolutions

HB 381, by Representatives K. Harper, Kerr, Walker, Williams, Donnermeyer, Sheehan and Callahan: AN ACT relating to planning commissions.

HB 382, by Representative Farrow: AN ACT relating to guardianship.

HB 383, by Representative Farrow: AN ACT relating to persons with disabilities.

HB 384, by Representative Collins: AN ACT changing the classification of the City of Van Lear, in Johnson County.

HB 385, by Representative McElroy: AN ACT relating to teacher's retirement and declaring an emergency.

HB 386, by Representative Brown: AN ACT relating to air emissions.

HB 387, by Representative Richards: AN ACT relating to state boards and committees.

HB 388, by Representative Donnermeyer: AN ACT relating to open records of public agencies.

HB 389, by Representatives Farrow and Arnold: AN ACT relating to city contracts with sheriffs.

HB 390, by Representative Stumbo: AN ACT relating to rescue squads.

HB 391, by Representative Stumbo: AN ACT relating to motor vehicles.

HB 392, by Representative Gregory: AN ACT relating to air boards.

HR 66, by Representative Crupper: A RESOLUTION recognizing and honoring the Kentucky Parents Teachers Organizations.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 315**, by Representative Farley:

Amend printed copy of **HB 315** on page 9, line 25, by bracketing around and striking through "before retirement".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 377, HB 373**

Business Organizations and Professions: **HB 374**

Education: **HB 378, HB 375, HB 370**

Health and Welfare: **HB 380, HB 371, HB 372**

State Government: **HB 376**

Tourism and Energy: **HB 379, HCR 64**

Report of Committees

The Committee on Rules reported that **SB 72** has been posted for passage in the Orders of the Day for February 5, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 300**

Health and Welfare: **HB 310**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 310**

Report of Committees (Continued)

The Committee on Agriculture and Small Business reported **HB 21** and **HB 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 21, AN ACT relating to the filing of sales and use tax returns.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.590 is amended to read as follows:

(1) ***Subject to the exceptions included in this section,*** for purposes of facilitating the administration, payment, or collection of the taxes levied by this chapter, the cabinet may, within its discretion, permit or require returns or tax payments for periods other than those prescribed by KRS 139.540 and 139.550. ***In exercising its discretion, the cabinet shall not create a period that ends other than at the end of a calendar month. Further, the cabinet shall not require that returns or tax payments be remitted any earlier than twenty (20) days after the close of the period.***

(2) Notwithstanding the provisions of KRS 139.550, any retailer who desires to file his return on a quarterly basis shall make application in writing to the cabinet at least ninety (90) days prior to the due date of such quarterly return. When permitted, quarterly returns shall be filed in such manner as the cabinet may prescribe. No retailer may change from a quarterly reporting system to monthly reporting without authorization of the cabinet.

(3) In no case shall a retailer be permitted to file quarterly unless monthly payments for the immediately preceding month are made on the basis of taxable gross receipts or total sales price of property used, consumed, or stored, as the case may be.

HB 22, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if such sale amounts to twenty-five cents (25) or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption applies only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit is not entitled to the exemption even though such purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the revenue cabinet;

(b) In making such determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission. Where the service is classified as residential, use other than for "residential" purposes by the customer will not negate the exemption;

(c) The exemption does not apply where charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption applies also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years; and

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of such proof.

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. Such property shall be regarded as having been purchased for resale.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if such property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they must come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle. A single manufacturing cycle is considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

[~~(b) It will be noted that in none of the three (3) categories is any exemption provided for repair parts. KRS 139.170 specifically holds replacement machinery to be taxable. Since replacement machinery is subject to tax, it necessarily follows that repair or replacement parts are subject to tax. Repair parts are not considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing.~~]

Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including premixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) ***Manufacturing machinery. As used in this section, the term "manufacturing machinery" means machinery and appurtenant equipment used directly in the manufacturing or processing production process. Machinery is "used directly" in manufacturing or processing production if it acts directly upon or moves the raw materials or product in a continuous, unbroken integrated process, or if it is essential to the integrated process or mandated by law. The production process begins when raw material is acted upon to change its size, shape or composition or is transformed in some manner. The production process ends when the finished goods are packaged or ready for sale. The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas*** [~~Machinery for new and expanded industry~~];

(10) ***Repair and replacement parts for manufacturing machinery;***

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12)[~~(11)~~] Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities [~~shall be effective for sales made through June 30, 1992~~];

(13)[~~(12)~~] Tombstones and other memorial grave markers;

(14)[~~(13)~~] On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15)[~~(14)~~] On-farm facilities used exclusively for raising chickens. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16)[~~(15)~~] Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17)[~~(16)~~] Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18)[~~(17)~~] Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19)[~~(18)~~] Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20)[~~(19)~~] Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21)[~~(20)~~] Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures[~~. The exemption provided in this subsection shall be effective for sales made through June 30, 1992~~];

(22)[~~(21)~~] Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the Federal Food Stamp Program; and

(23)[~~(22)~~] Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes.

Section 3. The following KRS section is repealed:

139.170 "Machinery for new and expanded industry" — "Processing production."

The Committee on Appropriations and Revenue reported **SB 31**, **SB 32** and **SB 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 31, AN ACT relating to real estate transfer tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents (50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To,in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or ***between former spouses as part of a divorce proceeding*** [~~parent and child, with only nominal consideration therefor~~];

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to mergers of corporations;

(i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(j) Under a foreclosure proceeding;

(k) Between individuals and a corporation, with only nominal consideration therefor, if those individuals are the exclusive owners of that corporation***; and***

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor.

SB 32, AN ACT relating to financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.370 is amended to read as follows:

(1) Any check issued by the State Treasurer shall not be valid as an order for payment after one (1) year from its date of issue and this limitation shall appear on all checks issued. The State Treasurer is authorized to clear his records of all such unpaid checks and credit the amounts to the fund against which it was originally drawn.

(2) When any properly endorsed check issued by the State Treasurer is presented for payment more than one (1) year after its date of issue and within the period prescribed by KRS 413.120, the State Treasurer shall, upon satisfactory proof of ownership, cancel such check and forward it to the secretary of the Finance and Administration Cabinet with the date and number of the pay-in-voucher which credited the amount of such check to a particular fund. The secretary of the Finance and Administration Cabinet shall draw a warrant against the check. All endorsements on the surrendered check shall have the same effect as if the check were paid by the drawee. All checks paid in the manner herein set forth shall be charged against the fund against which they were originally drawn.

(3) There shall be a fee charged for each check presented for reissue. The fee shall be twenty-five dollars ($25) [~~or ten percent (10%) of the face value of the check to be reissued, whichever is the larger~~]. If the check to be reissued is less than twenty-five dollars ($25) and replacement is required, a check payable to the Kentucky State Treasurer shall accompany the request for reissue. Reissued checks greater than twenty-five dollars ($25) shall have the fee deducted from the face value of the original check.

(4) Fees collected by the Treasurer shall be deposited in the surplus account of the general fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) A duplicate check shall be issued by the Treasurer upon receipt of a notarized affidavit, signed by the payee and stating that the original check has been lost or stolen, and if the original check has not been presented for payment.

(2) The payee receiving a duplicate check shall make good any loss the Commonwealth or the Treasurer may sustain on account of the issuance of the duplicate or the presentation and payment of the original, if the loss has been caused by actions of the payee. The Treasurer shall not be liable for any loss sustained by the issuance of the duplicate check.

SB 34, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) ***Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry the products of which ordinarily constitute food for human consumption;***

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10)[~~(9)~~] Machinery for new and expanded industry;

(11)[~~(10)~~] Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12)[~~(11)~~] Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1992;

(13)[~~(12)~~] Tombstones and other memorial grave markers;

(14)[~~(13)~~] On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15)[~~(14)~~] On-farm facilities used exclusively for raising chickens. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16)[~~(15)~~] Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17)[~~(16)~~] Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18)[~~(17)~~] Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19)[~~(18)~~] Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20)[~~(19)~~] Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21)[~~(20)~~] Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1992;

(22)[~~(21)~~] Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program; and

(23)[~~(22)~~] Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes.

The Committee on Cities reported **HB 66**, **HB 315** and **SB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 66, AN ACT relating to enterprise zones and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.650 is amended to read as follows:

The General Assembly hereby finds and declares that the purpose of the enterprise zone program is to revitalize economically depressed areas of the state. It is the intent of the General Assembly to achieve this purpose by adhering to the following goals:

(1) Improve the quality of life of individuals that reside within an enterprise zone by providing employment opportunities, job training, and neighborhood improvement programs;

(2) Encourage economic activity by assisting and maintaining existing business within an enterprise zone;

(3) Encourage economic activity by stimulating the influx of new business within an enterprise zone; and

(4) Eliminate blighted and deteriorated areas within an enterprise zone that feature chronic abandonment or demolition of residential or commercial structures or property. [~~The General Assembly hereby finds and declares that the health, safety and welfare of the people of Kentucky are enhanced by the continual encouragement, development, growth and expansion of private enterprise within this Commonwealth. There are certain economically depressed areas in the Commonwealth that need particular attention to create new jobs, stimulate economic activity and attract private sector investment rather than government subsidy to improve the quality of life of their citizens. It is the purpose of KRS 154.655 to 154.705 to encourage new economic activity in these depressed areas of the Commonwealth by means of reduced taxes and the removal of unnecessary governmental barriers to the production and earning of wages and profits and the creation of economic growth.~~]

Section 2. KRS 154.655 is amended to read as follows:

As used in KRS 154.660 to 154.705, unless the context otherwise requires:

(1) "Authority" means the Enterprise Zone Authority of Kentucky;

(2) "Enterprise zone" means an area ***designated*** [~~of the Commonwealth declared~~] by the authority to be eligible for the benefits of KRS 154.660 to 154.705;

(3) ***"Establishment" means a single physical location where business is conducted or where services or industrial operations are performed*** [~~"New business" means any person, corporation or other entity who after the time of designation of an enterprise zone becomes engaged in the active conduct of a trade or business within that zone~~];

(4) "Existing business" means ***a*** [~~any~~] person, corporation, or other entity [~~who during the time of designation of an enterprise zone is already~~] engaged in the active conduct of a trade or business ***at a location within the enterprise zone prior to the date the authority designated the area as an enterprise zone***;

(5) "Local government" means a city, county, urban-county government, or charter county government;

(6) "New business" means a person, corporation, or other entity who was not engaged in the active conduct of a trade or business in the enterprise zone prior to the date the authority designated the area as an enterprise zone, and who becomes engaged in the active conduct of a trade or business within the enterprise zone after the date the authority designated the area as an enterprise zone;

(7)[~~(5)~~] "Qualified business" means ***an existing business or new business that has been certified by the authority to have*** [~~any new or existing business with~~] at least fifty percent (50%) of its employees performing substantially all of their services within an enterprise zone ***and meeting one (1) of the following criteria***:

(a) With a new business employing [~~individuals from one (1) or more of the following three (3) categories constituting~~] at least twenty-five percent (25%) of the business's employees ***from the targeted workforce; or***[~~:~~

~~1. Residents of an enterprise zone;~~

~~2. Individuals who have been unemployed for at least ninety (90) days prior to obtaining employment with the business;~~

~~3. Individuals who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to obtaining employment with the business; or~~]

(b) With an existing business creating new activity within the enterprise zone of not less than a twenty percent (20%) increase in the number of employees or by a twenty percent (20%) increase in capital investment within eighteen (18) months from the date of application for certification as a qualified business. ***Businesses that are certified based upon an increase in employees shall employ at least twenty-five percent (25%) of the new employees from the targeted workforce.***[~~;~~

~~(c) Any subsidiary or franchise of a new or existing business may apply to the authority for certification as a qualified business, if the subsidiary or franchise is site specific to the enterprise zone and maintains separate bookkeeping for business activity conducted within the enterprise zone;~~

~~(6) "Qualified property" means:~~

~~(a) Any Tangible personal property located in an enterprise zone used predominantly by the taxpayer in the zone in the active conduct of a trade or business; and~~

~~(b) Any Real property located in such zone which:~~

~~1. Was used predominantly by the taxpayer in the active conduct of a trade or business; or~~

~~2. Was the principal residence of the taxpayer on the date of the sale or exchange;~~

~~(c) Any Interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business; and~~]

(8)[~~(7)~~] "Qualified employee" means ***an*** [~~any~~] employee ***of*** [~~who works for~~] a qualified business***; and***

(9) "Targeted workforce" means Kentucky residents:

(a) Who reside within an enterprise zone; or

(b) Who have been unemployed for at least ninety (90) days or who have received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with a qualified business.

(c) For the purpose of this subsection, "Kentucky resident" means a person who has resided in the Commonwealth for at least ninety (90) days.

Section 3. KRS 154.660 is amended to read as follows:

(1) ***A local government may,*** [~~Any city, county or urban-county government~~] by act of the local legislative body, [~~may~~] designate ***an*** [~~any~~] area [~~or areas~~] within ***its*** [~~their~~] jurisdiction to be an economically depressed area. ***The local government*** [~~Such city, county or urban-county government~~] may then make written application to the authority to have ***the*** [~~such~~] area [~~or areas~~] declared to be an enterprise zone. ***The*** [~~Such~~] application shall include a description of the location of the area [~~or areas in question~~] and [~~such~~] other information [~~as~~] the authority may require.

(2) Two (2) or more ***local governments*** [~~cities, counties, urban-county governments or any combination thereof,~~] may, by an act of each respective legislative body, designate ***an*** [~~any~~] area [~~or areas~~] within their collective jurisdictions to be an economically depressed area. After each ***local government*** [~~jurisdiction~~] has enacted the proper ordinances designating the area [~~or areas~~] to be economically depressed for the purpose of applying to the authority for designation as an enterprise zone, each legislative body shall enter into an interlocal governmental agreement. The agreement shall be governed by the provisions of the interlocal cooperation act, KRS 65.210 to 65.300, and shall include:

(a) The establishment of a joint board to administer the enterprise zone ***that*** [~~which~~] shall be comprised of representatives from each ***local government*** [~~jurisdiction~~];

(b) A statement establishing the joint board for the life of the enterprise zone;

(c) A statement establishing uniform local incentives ***that*** [~~which~~] shall be offered by each ***local government*** [~~jurisdiction~~];

(d) A statement establishing financial support by each ***local government*** [~~jurisdiction~~] for the administration of the joint board; and

(e) [~~Any~~] Other requirements ***that*** [~~which~~] may be established by the authority.

(3) ***A local government*** [~~Any jurisdiction~~] with an existing enterprise zone may apply to the authority to amend the boundaries of the existing zone for the purpose of joining with other ***local governments*** [~~jurisdictions~~]. ***A local government*** [~~Any governmental unit~~] applying to cross jurisdictional boundaries to amend the area of an enterprise zone shall comply with the provisions of subsection (2) of this section and KRS 154.662.

(4) ***Upon*** [~~After~~] approval of the interlocal governmental agreement pursuant to KRS 65.210 to 65.300, two (2) or more ***local governments*** [~~jurisdictions~~] may [~~then~~] make written application to the authority to have ***the*** [~~such~~] area [~~or areas~~] declared [~~to be~~] an enterprise zone. ***The*** [~~Such~~] application shall include a description of the area [~~or areas in question~~] and [~~such~~] other information [~~as~~] the authority may require.

(5) Upon receipt of an application, the authority shall review the application to determine ***if*** [~~whether~~] the area [~~or areas~~] described in the application ***qualifies*** [~~qualify~~] to be designated an enterprise zone.

(6) The authority shall complete its review within one hundred twenty (120) days of receipt of the application, but may extend this time period an additional sixty (60) days if necessary. If the authority denies the application, it shall inform the [~~unit of~~] local government of the fact ***in writing*** along with [~~the~~] reasons for the denial.

Section 4. KRS 154.662 is amended to read as follows:

(1) ***A local government may make written application to the authority for purposes of amending the boundaries of an existing enterprise zone. A*** boundary ***change*** [~~changes~~] to ***an*** existing enterprise ***zone*** [~~zones~~] shall not become effective until after written approval has been granted by the authority.

(2) ***A local government applying to the authority for an amendment to the boundaries of an existing enterprise zone shall certify in writing the following information:***

(a) The proposed area for amendment is contiguous to the existing zone;

(b) The proposed area for amendment independently meets the requirements established by Section 5 of this Act; and

(c) A statement documenting the reasons the local government is seeking to amend the boundaries of its existing enterprise zone. A detailed map showing original boundary lines and proposed boundary line changes shall be attached to the application [~~Any jurisdiction applying to the authority for any amendment to the boundaries of an existing enterprise zone shall certify the proposed area for amendment is contiguous to the existing zone~~].

(3) [~~The jurisdiction applying for an amendment to the boundaries of an existing enterprise zone shall submit an application under the same guidelines as the original application, with a map showing the original boundary lines and the proposed boundary line changes.~~

~~(4)~~] Prior to granting approval for amending the boundaries of an existing enterprise zone, the authority shall ***verify and document in writing*** [~~consider~~] the following:

(a) ***How amending the boundaries of the existing zone will comply with the goals established pursuant to Section 1 of this Act;***

(b) The ***local government's*** [~~jurisdiction's~~] commitment and incentives to be offered to support the ***expanded*** enterprise zone;

(c)[~~(b)~~] If two (2) or more ***local governments*** [~~jurisdictions~~] are involved, that each ***local government*** [~~jurisdiction~~] has met the requirements of ***Section 3 of this Act*** [~~KRS 154.660~~];

(d)[~~(c)~~] The ***local government's*** [~~jurisdiction's~~] attempt to utilize available buildings and properties within the existing zone; and

(e)[~~(d)~~] Unforeseen circumstances or overriding economic factors that have occurred since the designation of the original zone ***that necessitate amending the boundaries of the existing zone.***

Section 5. KRS 154.665 is amended to read as follows:

(1) Any area [~~or areas~~] of a ***local government*** [~~city, county or urban-county government~~] may be designated an enterprise zone ***that*** [~~which~~]:

(a) Has a continuous boundary, and

(b) Is an area of pervasive poverty, unemployment and economic distress.

(2) An area meets the requirements of subsection (1)(b) of this section if:

(a) The average rate of unemployment in ***the*** [~~such~~] area for the most recent eighteen (18) month period for which data ***is*** [~~are~~] available was at least one and one-half (1 1/2) times the average national rate ***of*** [~~or~~] unemployment for ***that*** [~~such~~] eighteen (18) month period; and

(b) At least seventy percent (70%) of the residents living in the area have incomes below eighty percent (80%) of the median income of the residents of the ***local*** [~~city, county or urban-county~~] government requesting designation ***of an enterprise zone***; or

(c) The population of all census tracts in the area decreased by ten percent (10%) or more between ***1980 and 1990*** [~~1970~~ ~~and~~ ~~1980~~] and the ***local*** [~~city,~~ ~~county~~ ~~or~~ ~~urban-county~~] government requesting designation establishes ***in writing,*** to the satisfaction of the authority, that either:

1. Chronic abandonment or demolition of commercial or residential structures exist in the area, or

2. Substantial tax arrearages of commercial or residential structures exist in the area.

Section 6. KRS 154.670 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) ***Local governments that have documented the greatest commitment to the goals established pursuant to Section 1 of this Act;***

(b) Areas with the highest levels of poverty, unemployment, and general distress; ***and***

(c)[~~(b)~~] Areas ***that*** [~~which~~] have the ***greatest*** [~~widest~~] support from the ***local*** government seeking designation, the community, residents, local business and private organizations***, taking into account the resources available to the local government.***[~~;~~ ~~and~~

~~(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employees, taking into account the resources available to such government to make such efforts.~~]

(2) [~~Any~~] Designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(3) The authority ***shall*** [~~may~~] remove ***the*** designation of ***an*** [~~any~~] area as an enterprise zone if ***the*** [~~such~~] area no longer meets the criteria for designation as set out in KRS 154.660 to 154.705 or by ***administrative*** regulation adopted by the authority pursuant to KRS 154.660 to 154.705[~~, provided that no designation shall be removed less than ten (10) years from the date of original designation~~]. ***The authority shall establish by administrative regulation a procedure for revocation of the designation of an enterprise zone. The authority shall ensure that local governments shall be notified in writing of the authority's intent and reasons for considering revocation of the designation. The authority shall establish a reasonable time frame within which the local government may correct the problems cited by the authority to avoid revocation of the enterprise zone designation.***

(4) A local government that has had an enterprise zone designation revoked shall be prohibited from applying for future enterprise zone designations for at least five (5) years. The authority may, by administrative regulation, extend the time frame that a local government is prohibited from participating in the enterprise zone program.

(5) If the authority revokes the designation of an enterprise zone, it shall immediately begin reviewing the applications of local governments seeking an enterprise zone and designate a new area as an enterprise zone as soon as possible.

(6) If the authority removes the designation of ***an*** [~~any~~] area as an enterprise zone pursuant to this ***section*** [~~subsection~~], the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.690 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone.

Section 7. KRS 154.675 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.660 to 154.705, there is hereby created the Enterprise Zone Authority of Kentucky consisting of ***eleven (11)*** [~~nine~~ ~~(9)~~] members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky ***League of Cities*** [~~Municipal~~ ~~League~~]; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business

community; two (2) members appointed by the Governor to serve at large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the secretary of the Economic Development Cabinet; [~~and~~] the secretary of ***the*** Economic Development ***Cabinet or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for Human Resources or his designee.***

(2) ***Authority members shall serve a term of four (4) years and, except for the secretary of the Economic Development Cabinet, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for Human Resources, shall not be eligible to succeed themselves.*** [~~The members shall serve a term of four (4) years, except that the first Appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.~~]

(3) ***The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings.*** All members shall serve until such time as their successors are qualified and appointed. ***Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.***

(4) The Economic Development Cabinet shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 8. KRS 154.680 is amended to read as follows:

The authority shall administer the provisions of KRS 154.660 to 154.705, and shall [~~have the following powers and duties~~]:

(1) Establish by administrative regulation a process to monitor compliance by local governments and qualified businesses with the provisions of the enterprise zone program;

(2) Initiate contact and fully cooperate with the Revenue Cabinet in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues;

(3) Report to the General Assembly no later than October 1 annually regarding:

(a) The authority's method of monitoring the enterprise zone program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues;

(c) The authority's method of reviewing local incentives;

(d) Information on the number of qualified businesses per zone;

(e) Information on the number of requests for amendments to zone boundaries and the number of amendments granted and denied; and

(f) Recommendations requiring state legislative action;

(4) Revoke designation of an area as an enterprise zone pursuant to the provisions of Section 6 of this Act.

(5) Prohibit the certification of businesses in an enterprise zone if the local government has been notified in writing by the authority of the authority's intent to revoke the local government's designation as an enterprise zone. The prohibition of certification of businesses shall continue until the authority officially revokes the local government's enterprise zone designation, or notifies the local government in writing that the problems cited by the authority have been corrected and the enterprise zone designation shall not be revoked;

(6) Offer technical assistance and job training assistance to local governments, qualified businesses, and neighborhood enterprise association corporations; and

(7) Aggressively review local incentives and commitments on an annual basis.

[~~(1) To establish criteria for determining which areas qualify as enterprise zones;~~

(2) To monitor the implementation of KRS 154.660 to 154.705 and submit reports evaluating the effectiveness of the program and any suggestions for legislation to the Governor and general assembly by October 1 of any year preceding a regular session of the general assembly;

(3) To conduct a continuing evaluation program of enterprise zones;

(4) To promulgate all necessary rules and regulations in accordance with the provisions of KRS Chapter 13A to carry out the purposes of KRS 154.660 to 154.705;

(5) To assist units of local government in obtaining federal status as an enterprise zone;

(6) To assist any qualified employer in obtaining the benefits of any incentive or inducement program provided by law and to certify qualified employers to be eligible for the benefits of KRS 154.660 to 154.705;

(7) To assist the governing authority of an enterprise zone in obtaining assistance from any other agency of state government, including but not limited to assistance in providing training and technical assistance to qualified businesses within a zone;

(8) To assist the governing authority of an enterprise zone in the development of small business incubators;

(9) To review local incentives every two (2) years; and

(10) To prohibit the certification of any future qualified business within the enterprise zone if the local jurisdiction is not complying with the provisions of KRS 154.660 to 1564.705, until such time as the authority deems that the jurisdiction has met the requirements of KRS 154.660 to 154.705.]

Section 9. KRS 154.685 is amended to read as follows:

(1) The authority shall establish and design for public display a master business license ***that*** [~~which~~] shall certify that the qualifying business has obtained all necessary state agency permits, licenses, certificates, approvals, registrations, charters, or any other form of permission required by law[~~, including agency rule,~~] to engage in business in ***an enterprise*** [~~a~~] zone.

(2) The authority shall provide information and [~~appropriate~~] assistance to persons desiring to locate and engage in business in ***an enterprise*** [~~a~~] zone regarding the state licenses, permits, certificates, approvals, registrations, charters, and any other forms of permission required by law to engage in business in the Commonwealth.

(3) ***Responsibility*** [~~Irrespective of any authority delegated to the authority to implement the provisions of KRS 154.660 to 154.705, the authority~~] for determining if [~~any~~] requested licenses, permits, certificates, approvals, registrations, charters, or [~~any~~] other form of permission required by law shall be issued ***to a qualified business,*** shall remain with the agency [~~otherwise~~] legally authorized to issue the license.

Section 10. KRS 154.690 is amended to read as follows:

(1) A new business, or an existing business certified on the basis of employee expansion, shall be eligible to receive the tax advantages provided for in this section if the qualified business maintains the percentage of targeted workforce employees required by subsection (7) of Section 2 of this Act for the entire time it is certified as a qualified business in the enterprise zone program.

(2) Building materials used in remodeling, rehabilitation, or new construction within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139.

(3) New and used equipment and machinery purchased and used by a qualified business within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139. Equipment and machinery may be moved in and out of an enterprise zone for business purposes only. In addition, it may not become a permanent fixture at another location and may be only temporarily located elsewhere for maintenance, mechanical failure, or emergency short term replacement.

(4) Commercial vehicles as defined in KRS 186.050, purchased and used solely for business purposes, shall be exempt from the motor vehicle usage tax imposed by KRS 138.460.

(5) Motor vehicles not considered commercial vehicles pursuant to KRS 186.050, purchased and used solely for business purposes, shall be exempt from the motor vehicle usage tax limited to the first twenty thousand dollars ($20,000) of the "retail price" of the vehicle as defined in KRS 138.450.

(6) Motor vehicles or motor trucks purchased by a qualified business for the purpose of being leased to a customer for a period greater than ninety (90) days shall not be exempt from the motor vehicle usage taxes provided for in KRS 138.460.

(7) A qualified business shall be allowed a credit against the tax levied pursuant to KRS 141.040 equal to ten percent (10%) of wages paid to each employee who has been unemployed for at least ninety (90) days or who has received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with the qualified business, up to fifteen hundred dollars ($1,500) per employee. Any unused credit may be carried forward for up to five (5) years.

(8) A local government may, by an act of the local legislative body, levy an ad valorem tax rate of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value on qualified property within an enterprise zone regardless of the rates provided for in KRS Chapter 132.

[~~(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.~~

~~(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.~~

~~(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.~~

~~(4) The provisions of KRS 138.460 notwithstanding, except for motor vehicles purchased by said qualified businesses for the purpose of being leased to a customer for a period greater than ninety (90) days, motor vehicles purchased and used by qualified businesses shall be exempt from the motor vehicle usage tax.~~

~~(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.~~

~~(6) For the purposes of KRS 154.660 to 154.705, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.~~

~~(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.~~]

Section 11. KRS 154.700 is amended to read as follows:

(1) Individuals residing in an enterprise zone may establish[~~, under the provisions of KRS 154.660 to 154.705,~~] a Neighborhood Enterprise Association Corporation. There shall be [~~only~~] one (1) [~~such~~] corporation for each geographic neighborhood area[~~. The neighborhood area to~~] which [~~each corporation applies~~] shall be defined by the incorporating residents.

(2) The incorporating residents shall draft a charter and bylaws for the association suitable for doing business in corporate form. The charter and bylaws shall describe the geographic neighborhood area to which the incorporating association applies, the manner in which a stock interest in the corporation shall be offered to each resident of the neighborhood, contain provisions for amendment by a majority of stockholders, and authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(3) The incorporating residents shall send to all [~~eligible~~] residents of the corporation's neighborhood area:

(a) An explanation of the proposed new corporation and their rights in it;

(b) A copy of the corporate charter and bylaws; and

(c) An offer of the stock interest to which each particular resident is entitled without [~~any~~] charge [~~for such stock~~].

(4) The board of directors of the corporation may, upon approval of a majority of the members of the local legislative body of appropriate jurisdiction, apply to the authority for certification as a neighborhood enterprise association corporation. The authority shall not grant ***the*** [~~such~~] status unless the corporation has complied with the requirements of ***this section and*** [~~KRS 154.660 to 154.705 and such~~] other requirements as may be adopted by the authority by ***administrative*** regulation. Upon granting certification, the authority shall place the corporation's charter and bylaws in a public file. The authority shall have power to revoke or suspend certification, or any of the leases issued under subsection (5) of this section, if the corporation fails to continue to comply with the requirements of ***this section*** [~~KRS 154.660 to 154.705~~]. The authority shall give technical assistance to zone residents attempting to start [~~such~~] corporations.

(5) [~~All~~] Property within the neighborhood area of a certified corporation ***that*** [~~which~~] is owned by ***the*** state ***or a*** [~~and~~] local government and ***that*** [~~which~~] is not in current use by ***the*** [~~such~~] government shall be leased to the corporation. The term of the lease shall not be less than ninety-nine (99) years and the full amount of rental fees under ***the*** [~~such~~] lease shall not exceed one dollar ($1). The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of ***this section*** [~~KRS 154.660 to 154.705~~].

(6) A certified corporation shall be exempt from [~~any~~] state ***and*** [~~or~~] local ***taxation*** [~~tax~~] during the life of the zone in which it is located.

Section 12. KRS 154.705 is amended to read as follows:

(1) The Revenue Cabinet shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of enterprise zone tax exemptions on state revenues.

(2) Report to the General Assembly no later than October 1 annually regarding:

(a) The cabinet's method of monitoring the enterprise zone program;

(b) Information on the fiscal impact of enterprise zone tax exemptions on state revenues; and

(c) Recommendations requiring state legislative action.

(3) The Revenue Cabinet shall by administrative regulation amend its sales and use tax return to collect fiscal information on qualified businesses within an enterprise zone for purposes of reporting to the General Assembly.

(4) The Revenue Cabinet shall promulgate administrative regulations to establish a process for the collection of tax information relating to enterprise zone tax exemptions. [~~The Kentucky Revenue Cabinet shall assist the authority in the preparation of a joint questionnaire to be administered by the authority to qualified businesses within an enterprise zone, for the purpose of the authority reporting to the general assembly on the fiscal impact of the enterprise zone program.~~]

SECTION 13. A NEW SECTION OF KRS 154.660 TO 154.705 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The Cabinet for Human Resources shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 14. To carry out the purpose of Section 7, subsection (3) of this Act, there is appropriated to the authority out of the general fund in the State Treasury the sum of thirteen thousand two hundred dollars ($13,200) for the 1992-93 fiscal year and thirteen thousand two hundred dollars ($13,200) for the 1993-94 fiscal year.

Section 15. The following KRS section is repealed:

154.695 Enterprise zones may be exempt from administrative regulations — Exception — Procedure.

HB 315, AN ACT relating to disability and survivor benefits and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.862 is amended to read as follows:

(1) In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy percent (70%) of his last rate of salary. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Any member who retired prior to June 21, 1974 shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 95.860.

(2) If the member retired for total and permanent occupational disability would receive from a combination of (a) pension disability payments pursuant to subsection (1) of this section, and (b) workers' compensation payments, excluding spouse or dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of his last rate of salary, then the pension system benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The benefit shall not be reduced, however, below an amount equal to two and one-half percent (2 1/2%) of average salary for each year of the member's service. Any reduction in the payment shall be based upon workers' compensation benefits applicable at the time the payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the retiree shall inform the board, and the board shall increase the benefit by the amount of the reductions, but not by more than an amount which would increase the benefit to seventy percent (70%) of the last rate of salary***, excluding cost-of-living increases***. The board of trustees may pay estimated benefits to a retiree, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the actual benefits shall be determined and the account corrected retroactive to the effective date of the benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the disability retirement annuity on a monthly rather than a lump sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the retired member. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in the retirement benefit when lump sum payments are involved, and the general manager shall provide such assistance upon request.

(3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 2. KRS 95.863 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least ten (10) years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent (2 1/2%) of average salary, as defined in KRS 95.851(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary, and a maximum payment***, excluding cost-of-living increases,*** of fifty percent (50%) of average salary. Payment of this annuity shall be made during disability of the member. Any member who retired prior to June 21, 1974 shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred and seventy dollars ($170) per month. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

(3) Any member retired pursuant to this section shall receive the same cost-of-living increases granted to other retirees pursuant to the terms of KRS 95.859(3).

Section 3. KRS 95.860 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to fifty percent (50%) of the member's last rate of salary. This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred and fifty dollars ($150) per month. When social security benefits are increased the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive on account of each child, ten percent (10%) of the member's last rate of salary until

each child attains age eighteen (18). The combined payments to a widow and minor children, ***excluding cost-of-living increases,*** shall not exceed seventy-five percent (75%) of his final rate of salary.

(2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, each child shall be entitled to an annuity equal to fifteen percent (15%) of the member's last rate of salary until each child attains age eighteen (18), provided that the combined payments to such children, ***excluding cost-of-living increases,*** shall not exceed fifty percent (50%) of the member's last rate of salary.

(3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

(4) If a widow would receive from a combination of: (a) survivor benefits pursuant to this section, excluding benefits for minor children, and (b) workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary, then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2 1/2%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary, ***excluding cost-of-living increases***. The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky retirement systems to calculate the reduction in survivor benefits when lump sum payments are involved, and the general manager shall provide such assistance upon request.

(5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section shall receive the same increase an annuitant receives pursuant to KRS 95.859(3).

Section 4. KRS 95.861 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1 1/2%) of average salary for each year of total service, credited to the member, subject to a maximum payment, ***excluding cost-of-living increases,*** to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred and fifty dollars ($150) per month, and when social security benefits are increased the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:

(a) The widow had been married to the member at least one (1) year prior to his death;

(b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;

(c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).

(2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, ***excluding cost-of-living increases,*** to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).

(3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children, ten percent (10%) additional, subject to a maximum combined payment***, excluding cost-of-living increases,*** of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.

(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before retirement.

(5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section shall receive the same increase an annuitant receives pursuant to KRS 95.859(3).

Section 5. Whereas the 1990 amendment to KRS 95.859 by 1990 Acts Chapter 118, Section 4, inadvertantly failed to include disability retirees and survivors among those who would be eligible for cost-of-living increases from police and firefighter retirement systems in cities of the second class, and the General Assembly wishes to correct this oversight, an emergency is declared to exist, the effect of this Act shall be retroactive to July 13, 1990, and this Act shall become effective upon its passage and approval by the Governor.

SB 4, AN ACT relating to fire protection sprinkler contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.595 is amended to read as follows:

(1) The commissioner shall not issue a license under KRS 198B.560 and 198B.580, unless the fire protection sprinkler contractor applicant files with the commissioner proof of liability insurance coverage of not less than ***five hundred thousand dollars ($500,000)*** [~~two hundred and fifty thousand dollars ($250,000)~~] one person/maximum and ***one million dollars ($1,000,000)*** [~~five hundred thousand dollars ($500,000)~~] one accident/maximum and workers' compensation insurance as provided for in KRS Chapter 342.

(2) The insurance required by this section ***shall*** [~~must~~] be in the form of ***a*** certificate of insurance executed by an insurer authorized to do business in this state and countersigned by a local agent licensed in this state. Insurance certificates filed with the commissioner under this section shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the commissioner.

(3) Failure to maintain the insurance required ***by this section*** [~~hereunder~~] constitutes grounds for denial, suspension***,*** or revocation of a license under KRS 198B.620 by the commissioner.

The Committee on Business Organizations and Professions reported **HB 314**, with Committee Title Amendment attached thereto, **HB 345** and **HB 357** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 314, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a board of nursing consisting of twelve (12) members. Seven (7) members shall be registered nurses licensed to practice in the Commonwealth. Three (3) shall be practical nurses licensed to practice in the Commonwealth. One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth. One (1) member shall be a citizen at large, who is not associated with or financially interested in the practice or business regulated. Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. Each year two (2) registered nurse terms and one (1) licensed practical nurse term shall expire on June 30, except that every fourth year one (1) registered nurse term and one (1) consumer term shall expire on June 30. By March 1 the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1 the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall

make each appointment or appointments as necessary by July 1. By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Society for Hospital Nursing Service Administrators, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1. By March 1, ***of the year in which the Kentucky Association of Health Care Facilities representatives shall expire*** [~~1989~~], the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1[~~, 1989. This appointment may be made at any time after July 15, 1988 but not later than the date specified herein~~].

(2) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(3) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(4) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Four (4) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; and one (1) shall be in nursing administration.

(5) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, and have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment.

(6) The Governor shall appoint an advisory council to the board consisting of seven (7) members to be selected one (1) each from lists submitted by Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, Kentucky Nurses Association, Kentucky State Association of Licensed Practical Nurses, Kentucky Dental Association and Kentucky Pharmacists Association. The council shall function in an advisory capacity only as a constructive force in establishing and maintaining standards of nurse competency and licensure regulations in the interest of public protection, and, in this connection shall be provided with copies of any proposed regulations of the board at least thirty (30) days prior to their filing with the legislative research commission. The terms shall be for four (4) years. Two (2) shall be appointed each year except every fourth year when only one (1) shall be appointed.

Section 2. KRS 314.193 is amended to read as follows:

(1) There is hereby created a nurse practice council to be made up of ***eleven (11)*** [~~nine (9)~~] members, two (2) registered nurses who shall be from the board of nursing, two (2) physicians from the board of medical licensure, one (1) pharmacist from the board of pharmacy, one (1) physician from the Kentucky Medical Association, ***one (1) nurse representative from the Kentucky Association of Health Care facilities, one (1) nurse representative from the Kentucky Hospital Association,*** and three (3) advanced registered nurse practitioners. The advanced registered nurse practitioner members shall include one (1) nurse anesthetist, one (1) nurse midwife, and one (1) nurse practitioner who shall be nominated from members chosen by their respective nursing specialty groups or organizations and recommended to the board of nursing for appointment.

(2) The council shall meet annually or as the members designate and shall seek all available information from concerned nursing groups. The council shall have the duty of recommending standards in the performance of such acts requiring additional education which is recognized jointly by the nursing and medical professions. The board of nursing may authorize the performance of such additional acts by its regulations, after seeking all available information from the groups to be regulated. Such regulations shall not be inconsistent with statutory law.

(3) The terms for the council shall be for four (4) years. No member shall serve for more than two (2) consecutive terms.

The Committee Title Amendment to **HB 314** is as follows:

Amend printed copy of **HB 314**, Title, by deleting the title and inserting in lieu thereof, the following: "AN ACT relating to the board of nursing."

HB 345, AN ACT relating to the certification of marriage and family therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Examiners in Marriage and Family Therapy Certification;

(2) "Marriage and family therapist" means a person certified under this chapter to use the title and who has completed a masters or doctoral degree in marriage and family therapy, or an equivalent course of study, from an accredited educational institution, and who assesses and treats emotional problems within the context of marriage and the family.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Board of Examiners in Marriage and Family Therapy Certification, composed of five (5) members who shall be appointed by the Governor. Four (4) members shall be appointed from a list of eight (8) names submitted by the board of directors of the Kentucky Association of Marriage and Family Therapy. One (1) member appointed by the Governor shall be a citizen-at-large who is not associated with or financially interested in the practice or business of marriage and family therapy. The initial appointees who are eligible for certification shall be deemed certified immediately upon appointment and qualified as board members. Future board candidates shall be certified prior to nomination except for any citizen-at-large member.

(2) Each member of a board shall serve for four (4) years, except that initially the Governor shall appoint three (3) members with terms expiring at a rate of one (1) per year for the first three (3) years after the effective date of this Act. All reappointments and vacancies shall be filled by the Governor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Examine and approve or disapprove the granting of all certifications in the profession, approve the examination required of applicants for certification, provide for the administration and grading of the examination, and provide for other matters relating to certification in the profession of marriage and family therapy;

(2) Review the credentials of applicants for certification to determine if they are eligible for certification;

(3) Certify marriage and family therapist applicants who satisfy the experience and educational requirements of Sections 7 and 8 of this Act and have paid the fee provided for in Section 5 of this Act;

(4) Adopt a code of ethics for certified marriage and family therapists;

(5) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board and any decisions rendered; and

(6) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purpose and scope of Sections 1 to 14 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel or contract with the Division of Occupations and Professions of the Department of Finance and Administration for the provision of administrative services;

(2) Investigate suspected violations of Sections 1 to 14 of this Act; and

(3) Institute and maintain actions to restrain or enjoin violations of Sections 1 to 14 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marriage and family therapist shall pay the board an initial fee for certification which shall be set by the board pursuant to administrative regulations issued under KRS Chapter 13A. The applicant shall show the board that the applicant:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Has completed a masters or doctoral degree in marriage and family therapy from a regionally accredited educational institution, or an equivalent course of study and degree as defined by the board in administrative regulations promulgated under KRS Chapter 13A. In determining equivalency, the board shall use the criteria for marriage and family therapy education, and clinical training approved by the United States Department of Education; and

(4) (a) Has had at least two (2) years experience in the practice of marriage and family therapy satisfactory to the board, subsequent to being granted a masters degree;

(b) Has acquired a minimum of two hundred (200) hours of clinical supervision acceptable to the board; and

(c) Has passed a written examination prescribed by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for certification under Sections 1 to 14 of this Act, within one (1) year from the date of application for certification, shall meet the requirements of Section 5 of this Act except for completion of the written examination.

(2) One (1) year from the date of application for certification, all applicants shall meet all requirements for certification.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Certification issued under Sections 1 to 14 of this Act shall be renewed every three (3) years upon:

(a) Payment of a fee to be established by the board in accordance with KRS Chapter 13A not to exceed one hundred fifty dollars ($150); and

(b) Fulfillment of continuing education as determined by the board, of at least twenty (20) clock hours per year.

(2) The board shall cancel any certificate not renewed within three (3) months of the renewal date but may reinstate the certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue of renewal.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Provided the person does not claim falsely to be certified as a marriage and family therapist, persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, are exempt from Sections 1 to 14 of this Act.

(2) Nothing in Sections 1 to 14 of this Act shall be construed to alter, amend or interfere with the practice of employment counseling, or job placement counseling, or school counseling.

SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Any person not exempted in Section 8 of this Act shall not use the title marriage and family therapist or certified marriage and family therapist unless authorized to do so by the board, nor shall any person not exempted hold himself or herself out to the public as having this status by using these titles or substantially similar titles on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards, or other instruments or professional identification.

(2) Nothing in Sections 1 to 14 of this Act shall be construed to apply to the activities and services of a student intern or trainee in marriage and family therapy pursuing a program of studies in marriage and family therapy at an accredited institution of higher learning, if these activities are performed under supervision and constitute a part of the supervised program of study, and if the person is designated a counseling or marriage and family therapist intern or student in training.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

If the board finds any applicant or certificant whom it regulates under this chapter has violated the provisions of Sections 1 to 14 of this Act or any regulations promulgated thereunder, it may issue an order imposing one (1) or more of the following penalties:

(1) Denial of an application for certification either temporarily or permanently;

(2) Revocation of an application for certification either temporarily or permanently;

(3) After a hearing, suspension of a certificate for a period of up to five (5) years;

(4) Imposition of an administrative fine not to exceed one thousand dollars ($1,000); and

(5) Issuance of a public reprimand.

SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) In every proceeding for denial, suspension, or revocation of a certificate, the applicant or certificate holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at the person's last known address at least thirty (30) days prior to the hearing, written notice setting out each alleged offense with sufficient detail to apprise the person of the nature, time, and place of each offense. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board; and

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges.

(2) In every proceeding for denial, suspension or revocation of a certificate, the board:

(a) May subpoena persons and papers on its behalf and on the behalf of the person under consideration, administer oaths, and take testimony; and

(b) Shall provide written notice of its decision to the certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(3) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the certificate holder appeals the decision to the Circuit Court where the applicant or certificate holder resides. The denial, suspension, or revocation shall remain in effect pending any appeals unless the board provides otherwise in its denial, suspension or revocation order.

SECTION 12. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person whose certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board.

SECTION 13. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person holding a certificate granted under Sections 1 to 14 of this Act shall not testify in any civil proceeding concerning any communication made to the person, in the person's professional capacity, by the person's client, unless the client making the confidential communication waives the privilege.

SECTION 14. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Members of the board, its agents, and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by the board member, agent, or employee in good faith.

HB 357, AN ACT relating to certified public accountants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

(1) The proceedings, records, and workpapers of the review committee shall be privileged and not subject to discovery, subpoena, or other means of legal process, or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding. No member of the review committee or person involved in the quality review process shall testify in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the quality review process, or as to any finding, recommendation, evaluation, opinion, or other action of the committee.

(2) Information, documents, or records that are publicly available shall not be immuned from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the quality review process.

(3) This section shall not apply to materials prepared in connection with a particular engagement merely because they happen to subsequently be presented or considered as part of the quality of review process. This section shall not apply to disputes between review committees and persons or firms subject to a quality review arising from the performance of the quality review.

Section 2. KRS 325.220 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the State Board of Accountancy;

(2) "State" includes and means any state, territory, or insular possession of the United States, or the District of Columbia;

(3) "Public accountant" means a public accountant issued a permit to practice by the Commonwealth of Kentucky under the Public Accounting Act of 1946 as amended;

(4) "Attest," "attesting," or "attestation," when used with reference to financial information or the practice of public accountancy, means to issue, or the issuance of, opinions, reports, or other forms of language which state or imply assurance as to the reliability of any:

(a) Financial information; or

(b) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, administrative regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate, when such opinions, reports, or other forms of language are accompanied by or include any name, title, or wording that indicates that the person or firm issuing them is:

1. An accountant or auditor;

2. Has expert knowledge in accounting or auditing; or

3. That his or the firm's work has been performed in accordance with the applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation. The terms include forms of language which disclaim an opinion when ***the*** [~~such~~] forms of language are conventionally understood to imply any assurance as to the reliability of the financial information referred to and expertise on the part of the person uttering ***the*** [~~such~~] language; and any other form of language which is conventionally understood to imply such assurance and [~~such~~] expertise; or which indicates certain procedures have been performed in accordance with applicable professional standards for accounting or auditing services as established by the American Institute of Certified Public Accountants or other authorities, as recognized by the board by administrative regulation;

(5) "Practice of or practicing public accountancy" means the offering to perform or the performance by a licensee under this chapter, for a client or potential client, or one (1) or more types of services involving the use of accounting or auditing skills, or one (1) or more types of management, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. This definition shall not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax returns or financial statements, for which attestation by the preparer is not required;

(6) "Firm" means a sole proprietorship, partnership, [~~or~~] professional service corporation***,*** or association engaged in the practice of public accountancy;

(7) "Certificate" means a certificate as a "certified public accountant" issued pursuant to this chapter or corresponding provisions of prior law;

(8) "Licensee" means a certified public accountant, firm, or public accountant, holding a permit to practice public accounting issued under this chapter; [~~and~~]

(9) "Quality enhancement review" means a study, appraisal, or review ***by the board*** of one (1) or more aspects of the professional work of a person or firm in the practice of public accountancy***;***

(10) "Quality Review" means a study, appraisal, or review of one (1) or more aspects of the professional work of a person or firm in the practice of public accountancy and may include a quality assurance or peer review, or any internal review or inspection that is required by professional standards relating to quality control policies and procedures. The term shall not include a positive enforcement program of a state accountancy board; and

(11) "Review committee" means any person or persons carrying out, administering, or overseeing a quality review program [~~during which audits, reviews, or compilations shall be performed~~].

The Committee on Judiciary reported **HB 41**, **HB 43**, **HB 98**, with Committee Substitute attached thereto, **HB 301**, with Committee Substitute attached thereto, and **HB 302** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to termination of parental rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ______________, a child." The petition may be filed by a parent.

(2) The petition for the voluntary termination of parental rights shall be filed in the circuit court of the county where the petitioner ***or child*** resides or is found and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child.

(3) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

Section 2. KRS 625.042 is amended to read as follows:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing ***which shall not be more than ten (10) calendar days after the petition is filed.***

(2) The circuit court shall require notice to be served upon the local representative of the cabinet ***for the county in which the child resides*** in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency unless the cabinet has approved the placement.

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the circuit court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interests of the child shall be considered paramount.

(6) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

Section 3. KRS 625.060 is amended to read as follows:

(1) In addition to the child ***who shall be a nominal party***, the following shall be the parties in an action for involuntary termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated. It shall not be necessary to make the putative father a party if he is exempted by KRS 625.065.

(2) Any party ***other than the child*** who is not the petitioner shall be a respondent.

Section 4. KRS 625.065 is amended to read as follows:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exists:

(a) [~~He is known and voluntarily identified by the mother by affidavit;~~

~~(b)~~] Prior to the entry of a final order in a termination proceeding, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;

(b)[~~(c)~~] He has caused his name to be affixed to the birth certificate of the child;

(c)[~~(d)~~] He has commenced a judicial proceeding claiming parental right;

(d)[~~(e)~~] He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(e)[~~(f)~~] He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

Section 5. KRS 625.070 is amended to read as follows:

(1) In any action for involuntary termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky Rules of Civil Procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and filed in the record, or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

(3) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, ***appointment of a guardian ad litem for a child in an action for termination of parental rights shall be sufficient for personal jurisdiction over the child in the action*** [~~service upon a child committed to the cabinet shall be made upon the cabinet~~].

Section 6. KRS 625.080 is amended to read as follows:

In any involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years. The court shall make findings of fact and conclusions of law to support its judgment;

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed to represent the best interests of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by ***the petitioner, except the fee shall be paid by*** the Finance and Administration Cabinet ***when the cabinet is the petitioner.*** Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interests of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview shall be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;

(3) The parents have the right to legal representation in involuntary termination actions. If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if ***the*** [~~said~~] parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the parent; and, upon request, if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided or paid for by the Finance and Administration Cabinet a fee to be set by the court and not to exceed five hundred dollars ($500);

(4) ***The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor;***

(5) The trial in chief[~~Proceedings~~] under this chapter shall be ***heard within sixty (60) days of the petitioner's request for a trial date*** [~~expedited and completed as soon as practicable~~].

Section 7. KRS 625.090 is amended to read as follows:

(1) The circuit court ***shall*** [~~may~~] involuntarily terminate all parental rights of a parent of a named child, if the circuit court [~~finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused or neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child. No termination of parental rights shall be ordered unless the circuit court also~~] finds by clear and convincing evidence the existence of one (1) or more of the [~~following~~] grounds ***herein after set forth in subsection (2) of this section and the court finds by clear and convincing evidence that termination is in the best interest of the child.***

(2) The grounds for termination of parental rights are:

(a) That the parent has abandoned the child for a period of not less than ***ninety (90) days prior to judgment*** [~~six (6) months~~];

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(3)[~~(2)~~] In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider the following factors:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing agency or child-caring facility, whether the cabinet has***, prior to the filing of the petition made reasonable efforts to reunite the child with the parents*** [~~rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child~~];

(d) The efforts and adjustments the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; [~~and~~]

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so***; and***

(g) That the parent has been convicted of a felony and has been incarcerated in excess of one (1) year and has failed to make adequate provision for the care and nurture of the child; state foster care shall not be considered as adequate provision.

(3) ***The parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable time, considering the age of the child.***

(4) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

(5)[~~(4)~~] Upon the conclusion of proof and argument of counsel, the circuit court shall enter findings of fact, conclusions of law and a decision as to each parent-respondent ***within thirty (30) days*** either:

(a) Terminating the right of ***the*** [~~such~~] parent; or

(b) Dismissing the petition and in ***that*** [~~such~~] event stating whether the child shall be returned to the parent or shall remain in the custody of the state.

SECTION 8. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

In the case of a child who has become a ward of the Cabinet for Human Resources as a result of a termination of parental rights judgment entered against the child's parents, and who remains a ward of the cabinet upon attainment of his or her eighteenth birthday, the cabinet, in its discretion, may extend its wardship to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs or to assist the child in establishing independent living arrangements.

HB 43, AN ACT relating to dissolution of marriage and child custody.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.725 is amended to read as follows:

(1) Any family member who has been a resident of this state for at least thirty (30) days may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse the petition may be filed in the District Court in the county of his usual residence or in the District Court in the county of current residence.

(2) A petition filed pursuant to subsection (1) of this section may be filed by the family member seeking relief or by an adult family member on behalf of a minor family member.

(3) If a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue a protective order upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to KRS 403.785.

HB 98, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of vehicular homicide when he operates a motor vehicle in violation of KRS 189A.010, and as a result of operating a motor vehicle he causes the death of another person.

(2) Provisions of KRS 501.050 to the contrary notwithstanding, no culpable mental state, other than that defined in KRS 189A.010, shall be required for a conviction under this section.

(3) Vehicular homicide is a Class B felony.

(4) This section shall not be construed to preclude prosecution or conviction for any other offense defined in KRS Chapter 507; but no person shall be convicted of both vehicular homicide and another degree of criminal homicide as defined in KRS Chapter 507 for the same act against the same person. A conviction under KRS 189A.010 shall not preclude a conviction for vehicular homicide or any other degree of criminal homicide.

Section 2. KRS 507.010 is amended to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, [~~or~~] reckless homicide***, or vehicular homicide.***

Section 3. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. Provided, however, that the sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution, provided, however, such person may be transferred to another institution pursuant to rules and regulations of the Corrections Cabinet.

(6) Notwithstanding any provision of this chapter to the contrary, the court may order that a sentence imposed for any degree of criminal homicide as defined in KRS Chapter 507 shall run consecutively with any other sentence which the defendant shall serve.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of vehicular homicide when he wantonly operates a motor vehicle and as a result of his wanton operation of that motor vehicle he causes the death of another person.

(2) For the purpose of this offense only, "wanton operation of a motor vehicle" means operation of a motor vehicle by a person while:

(a) The alcohol concentration in his blood or breath is 0.10 or more as defined in KRS 189A.005; or

(b) Under the influence of alcohol; or

(c) Under the influence of any other substance or substances which impairs one's driving ability; or

(d) Under the combined influence of alcohol and any other substance which impairs one's driving ability.

(3) This section shall not be construed to preclude prosecution or conviction for any other offense defined in KRS Chapter 507; but no person shall be convicted of both vehicular homicide and another degree of criminal homicide as defined in KRS Chapter 507 for the same act against the same person.

(4) Vehicular homicide is a Class B felony.

Section 2. KRS 507.010 is amended to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, [~~or~~] reckless homicide***, or vehicular homicide***.

Section 3. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the

portion of the term which remained unserved at the time of the commission of the offense. Provided, however, that the sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution, provided, however, such person may be transferred to another institution pursuant to rules and regulations of the Corrections Cabinet.

(6) Notwithstanding any provision of this chapter to the contrary, the court may order that a sentence imposed for any degree of criminal homicide as defined in KRS Chapter 507 shall run consecutively with any other sentence which the defendant shall serve.

Section 4. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder***,*** [~~or~~] manslaughter***, or vehicular homicide*** resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall

be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such alcohol or substance abuse education or treatment program as the cabinet shall require. In the event said person fails to satisfactorily complete said education or treatment program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

HB 301, AN ACT relating to the Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.250 is amended to read as follows:

(1) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the cabinet pertinent to the parents or person exercising custodial control or supervision of the child assigned to the local board for review. ***Information and records shall include but not be limited to case permanency plans, case progress reports, case records, and pre-adoptive home studies.***

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the court, the cabinet, and public and private child-caring facilities. ***Information and records shall include but not be limited to case permanency plans, case progress reports, case records, and pre-adoptive home studies*** [~~when pertinent to the child assigned to the local board for review~~].

(3) All requested information or records, or both, not already before the local citizen review board at the time of the six (6) months review shall be submitted by the agency or organization in possession of the information or records, or both, no later than five (5) working days after the receipt of the request.

(4) ***If*** [~~Should~~] the local citizen review board ***is*** [~~be~~] denied access to any public or private information or records, or both, it may request the court to hold a hearing, at which time the court may require the agency or organization in whose possession the information or records, or both, are held to show cause as to the reasons why the information or records, or both, ***shall*** [~~should~~] not be ordered surrendered pursuant to its authority.

Section 2. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur at least once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, [~~and~~] case progress reports***, and pre-adoptive home studies*** submitted by the cabinet and [~~such~~] other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible.

The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board ***determine to*** [~~may feel should~~] be explored with regard to the best interests of the state or of the child.

(3) The local citizen review board may, at the discretion of the board, review all records pertaining to allegations of physical abuse, sexual abuse, or neglect in order to determine the adequacy of the investigation. The board shall provide to the cabinet and the court a report of the findings and recommendations concerning the review.

Section 3. KRS 620.320 is amended to read as follows:

The duties of the state citizen review board shall be to:

(1) Establish and approve training programs for local citizen review board members;

(2) Review and coordinate the activities of local citizen review boards;

(3) Establish reporting procedures to be followed by the local citizen review boards and to provide information on the effectiveness of such local citizen review boards; and

(4) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Legislative Research Commission regarding:

(a) Laws of the Commonwealth***;*** [~~and~~]

(b) Practices, policies and procedures within the Commonwealth affecting permanence for children in out-of-home placement ***and the investigation of allegations of abuse and neglect***; and

(c)[~~(b)~~] The effectiveness or lack thereof and reasons therefor of local citizen review of children in foster care in bringing about permanence for the Commonwealth's children.

The Committee Substitute to **HB 301** is as follows:

HB 301, AN ACT relating to the Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.250 is amended to read as follows:

(1) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the cabinet pertinent to the parents or person exercising custodial control or supervision of the child assigned to the local board for review. ***Information and records shall include but not be limited to case permanency plans, case progress reports, case records, and out-of-state pre-adoptive home studies.***

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the court, the cabinet, and public and private child-caring facilities ***when pertinent to the child assigned to the local board for review. Information and records shall include but not be limited to case permanency plans, case progress reports, case records, and out-of-state pre-adoptive home studies*** [~~when pertinent to the child assigned to the local board for review~~].

(3) All requested information or records, or both, not already before the local citizen review board at the time of the six (6) months review shall be submitted by the agency or organization in possession of the information or records, or both, no later than five (5) working days after the receipt of the request.

(4) ***If*** [~~Should~~] the local citizen review board ***is*** [~~be~~] denied access to any public or private information or records, or both, it may request the court to hold a hearing, at which time the court may require the agency or organization in whose possession the information or records, or both, are held to show cause as to the reasons why the information or records, or both, ***shall*** [~~should~~] not be ordered surrendered pursuant to its authority.

Section 2. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur at least once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, [~~and~~] case progress reports***, and out-of-state pre-adoptive home studies*** submitted by the cabinet and [~~such~~] other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board ***determine to*** [~~may feel should~~] be explored with regard to the best interests of the state or of the child.

(3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Social Services and approved by the state review board in regard to child sexual abuse, the local citizen review board may review, at the discretion of the board, a sample of all petitions filed in the district court of the county served by the board alleging sexual abuse of any child, not to exceed 200 petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, and medical and mental health professionals and law enforcement agencies pertaining to said cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

Section 3. KRS 620.320 is amended to read as follows:

The duties of the state citizen review board shall be to:

(1) Establish and approve training programs for local citizen review board members;

(2) Review and coordinate the activities of local citizen review boards;

(3) Establish reporting procedures to be followed by the local citizen review boards and to provide information on the effectiveness of such local citizen review boards; and

(4) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Legislative Research Commission regarding:

(a) Laws of the Commonwealth***;*** [~~and~~]

(b) Practices, policies and procedures within the Commonwealth affecting permanence for children in out-of-home placement ***and the investigation of allegations of abuse and neglect***; and

(c)[~~(b)~~] The effectiveness or lack thereof and reasons therefor of local citizen review of children in foster care in bringing about permanence for the Commonwealth's children.

HB 302, AN ACT relating to the Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect***,*** or abuse action may be commenced by the filing of a petition by any interested person in the juvenile session of the District Court.

(2) After a petition has been filed, the clerk of the court shall issue, and the sheriff or other authorized agent shall serve, a copy of the petition and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be served on the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the petition and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time, and place when the parent or other person exercising custodial control or supervision is to appear before the court. ***The summons shall include written notification that the case may be reviewed by a local Citizen Review Board and the report of the board review shall become part of the court record.***

Section 2. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district a Foster Care Citizen Review Board to be appointed by the Chief District Judge. The Chief District Judge may authorize the creation of additional local citizen review boards as needed.

(2) Each local citizen review board shall consist of not less than three (3) [~~nor more than five (5)~~] members and shall be appointed according to the following guidelines:

(a) At least two (2) members of each local citizen review board shall be chosen from among the following professions: law, medicine, psychology, social work, and education, and shall have a demonstrated interest in foster care or child welfare. At least one (1) member shall have demonstrated interest in foster care or child welfare;

(b) All members of each local citizen review board shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served;

(c) Employees of the cabinet shall be prohibited from serving on the local citizen review board; and

(d) [~~Of the initial appointees to each local citizen review board, the Chief District Judges shall designate one (1) member to serve a term of one (1) year, not less than one (1) nor more than two (2) members to serve a term of two (2) years, and not less than one (1) nor more than two (2) members to serve a term of three (3) years.~~] All ***appointed*** [~~subsequent~~] board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August ***1*** [~~first~~] of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed.

(3) Local citizen review board members may be removed for nonparticipation or other cause.

(4) Each local citizen review board shall annually elect a chairman and vice-chairman to serve in the absence of the chairman.

(5) Each local citizen review board shall meet, at a place designated by the Chief District Judge, as often as is deemed necessary to carry out the duties of the board. The local citizen review board shall meet no less than four (4) times annually.

Section 3. The following KRS section is repealed:

620.300 Notice of completed reviews.

Orders of the Day

HB 271, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 271**. Agreed.

Representative Long moved that **HB 271**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See February 4, 1992 roll call on **HB 271** - Appendix.)

HB 271, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 271**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 132**. Agreed.

Representative Lear moved that **HB 132**, as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 4, 1992 roll call on **HB 132** - Appendix.)

HB 132, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 132**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 23, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 23**. Agreed.

Representative B. Smith moved that **HB 23**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 9. (See February 4, 1992 roll call on **HB 23** - Appendix.)

HB 23, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 23**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 257, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 257**. Agreed.

Representative Lewis moved that **HB 257**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 4, 1992 roll call on **HB 257** - Appendix.)

HB 257, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 257**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 393, by Representative Yates: AN ACT relating to bridges.

HB 394, by Representative Jensen: AN ACT relating to enterprise zones.

HB 395, by Representative Jensen: AN ACT relating to driver education.

HB 396, by Representative Clarke: AN ACT relating to escheats.

HB 397, by Representative Clarke: AN ACT relating to property tax administration.

HB 398, by Representative Clarke: AN ACT relating to property tax administration.

HB 399, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 400, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 401, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 402, by Representative Johnson: AN ACT relating to disability and survivor benefits.

HB 403, by Representative Johnson: AN ACT relating to insurance.

HB 404, by Representative Deskins: AN ACT relating to oil and gas.

HB 405, by Representative Deskins: AN ACT relating to workers' compensation.

HB 406, by Representative Deskins: AN ACT relating to workers' compensation.

HB 407, by Representative Deskins: AN ACT relating to school attendance.

HB 408, by Representatives Morris, Curd, Castleman, Bruce, Arnold, Maggard, Napier, J. Harper, Brown, Nunn and Altman: AN ACT relating to public administration.

HB 409, by Representatives Morris, Bruce, Altman and Zimmerman: AN ACT relating to the pre-paid funeral plans.

HB 410, by Representatives Morris, Curd, Bruce, Castleman, Arnold, Maggard, Ford, J. Harper, Napier, Brown, Nunn, Altman and Zimmerman: AN ACT relating to the management of prisoners.

HR 67, by Representative Ridley: A RESOLUTION urging Congress to return the authority of regulating cable television to states and localities.

Motions, Petitions and Communications (Continued)

Representative Ridley moved the adoption of the following **HR 67**:

HR 67, A RESOLUTION urging Congress to return the authority of regulating cable television to states and localities.

WHEREAS, the Cable Communication Act of 1984 stripped states and municipalities of any meaningful control over cable television providers; and

WHEREAS, cable companies enjoy service monopolies in most parts of Kentucky, a result of earlier franchise arrangements; and

WHEREAS, many cable operators have misused their freedoms under the 1984 Act to impose rate increases, of up to 300% in some localities, to arbitrarily change program offerings, and to reduce the quality of service to their captive customers; and

WHEREAS, the power of cable operators to control the information sent to viewers is easily abused and must be subjected to meaningful public control; and

WHEREAS, public outcry over excessive rate increases and other abuses of monopoly power by the cable industry has led the Congress to reconsider its 1984 deregulation of the industry; and

WHEREAS, the United States Senate has passed the Cable Television Consumer Protection Act of 1991 (S.12), to give local regulatory authorities more power to regulate cable television rates;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky House of Representatives supports the efforts of Congress to fashion fair and effective legislation to restore some state and local control over the cable television industry.

Section 2. That the House of Representatives urges the members of Kentucky's Congressional delegation to support revisions of the Cable Communications Act of 1984 which will restore regulatory authority to the states and localities.

Section 3. That a copy of this resolution shall be sent to each member of Kentucky's Congressional delegation.

HR 67 was adopted by voice vote.

Representative Nunn moved that the rules be suspended to allow floor privileges to special guests. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 20**, **HB 159**, **HB 204**, **HB 269**, **HB 287** and **HB 336**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "nay" on **HB 237**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspension:

HB 113, Representatives Jones, Lyne; **HB 132**, Representative Ackerson; **HB 280**, Representative Coleman; **HB 327**, Representative Richards; **HB 332**, Representative Coleman; **HB 379**, Representative Bruce.

The following member filed a request to have his name withdrawn as co-sponsor of the following Bill:

HB 248, Representative Altman.

Announcements

The following meetings were announced:

Central Kentucky Caucus, upon adjournment in Room 127.

Counties and Special Districts, 8:30 a.m., February 5, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 5 1992.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 3—LeMaster, Lile, McElroy.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 5, 1992

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Charles C. Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Strong.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 4, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Title Amendment No. 1 to **HB 314**, by Representative Butler:

Amend printed copy of **HB 314**- Title, by deleting the title and inserting in lieu thereof, the following:

"AN ACT relating to the composition of state bodies relating to the practice of nursing."

Floor Amendment No. 1 to **HB 46**, by Representative Sheehan:

Amend printed copy of **HB 46** on page 2, line 17, following "jail," to add "***for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages***"; and

On page 2, line 17, to place brackets "[ ]" around and strike through "at a reasonable amount".

Representative Lyne moved that the rules be suspended to act upon a Legislative Citation and to introduce guests. Agreed.

Representative Lyne moved the adoption of Legislative Citation No. 15. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Lt. Colonel Frank Wilmoth as commander of the 7th Battalion; 101st Aviation Regiment; 101st Airborn Division; Air Assault of Fort Campbell, you have offered outstanding assistance and service to the citizens of Logan County. Your participation in Logan County community activities has not gone unnoticed and is greatly appreciated by those you have touched.

This prestigious body joins Representative June Lyne in saluting you for dedication, hard work, and outstanding leadership. We extend to you our very best wishes.

Representative Richards moved that the rules be suspended to introduce guests. Agreed.

Representative Scorsone moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 72, by Representatives Scorsone, Mack and Stokes: A RESOLUTION honoring Bobbie R. Grogan.

Representative Scorsone moved the adoption of the following **HR 72**:

HR 72, A RESOLUTION honoring Bobbie R. Grogan.

That a man's true wealth hereafter, is the good he does in this world to his fellow-man. When he leaves this life, people will say, "what property has he left behind him?" but the angels will ask, "what good deeds has he sent before him?"

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Bobbie R. Grogan, a native of Calloway County, Kentucky, was born on October 5, 1915, the son of Bob D. and Flora Stubblefield Grogan; and

WHEREAS, Bobbie R. Grogan was the devout and loving husband of Odine Swann Grogan now deceased; and

WHEREAS, Bobbie R. Grogan received his Bachelor of Science degree in Agricultural Education from Western Kentucky University and his Master's degree in Agricultural Education from the University of Kentucky; and

WHEREAS, Bobbie R. Grogan retired from the Kentucky Bureau of Vocational Education in 1980 after thirty-eight years of service which included teaching of vocational agriculture at the high school level, serving as regional agricultural supervisor of four Western Kentucky regions, and at his retirement, holding the position of Deputy Director of Vocational Education; and

WHEREAS, Bobbie R. Grogan has been instrumental in the Kentucky Medical Association, served with distinction on the legislative committee of the American Association of Retired Persons (their motto being "To serve; not to be served"), devoted many hours toward the Widowed Persons Services Organization, and was a strong promoter of the "living will" statute; and

WHEREAS, Bobbie R. Grogan is the loving father to Gary Grogan and Jennifer Grogan Parton, and the adored grandfather of five grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Bobbie R. Grogan's contribution to the quality of education in the Commonwealth of Kentucky is beyond measure and will have lasting impact.

Section 2. That this honorable body expresses its deep sense of appreciation for the outstanding contributions Bobbie R. Grogan has made on behalf of his community and the Commonwealth of Kentucky.

Section 3. That the Clerk of the House of Representatives be directed to transmit eight copies of this Resolution to Mr. Bobbie R. Grogan, Bradford Square Nursing Home, 1040 U.S. 127 South, Frankfort, Kentucky.

HR 72 was adopted by voice vote.

Representative Arnold moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 69, by Representatives Richardson and Arnold: A RESOLUTION in loving memory and honor of Powell County Deputy Sheriff Arthur Briscoe, who succumbed in the line of duty.

Representative Arnold moved the adoption of the following **HR 69**:

HR 69, A RESOLUTION in loving memory and honor of Powell County Deputy Sheriff Arthur Briscoe, who succumbed in the line of duty.

The duty of man is plain and simple, and consists but of two points; his duty to God, which every man must feel; and his duty to his neighbor.

WHEREAS, the heroes of mankind are the mountains, the highlands of the moral world; and

WHEREAS, Kentucky's Sheriffs and their deputies heroically proffer their lives on a daily basis, for the security and safety of the citizens of the Commonwealth and are held in the highest regard and esteem by the citizens they so unselfishly serve; and

WHEREAS, Deputy Sheriff Arthur Briscoe was killed in the line of duty on Thursday, January 30, 1992, at the age of thirty-nine; and

WHEREAS, Powell County Deputy Sheriff Arthur Briscoe was the loving father of Dennis Briscoe; the adored son of Chester and Beatrice Briscoe; and loving brother to Carl Briscoe, Rosie Bennett, Leslie Campbell, Sherry Goodman, and Lisa Lally; and

WHEREAS, the passing of Arthur Briscoe has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement upon the passing of Arthur Briscoe and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Dennis Briscoe, c/o Powell County Sheriff's Office, Stanton, Kentucky and the Clay City Times, Clay City, Kentucky 40312.

HR 69 was adopted by voice vote.

Representative Arnold moved that a call of the roll be taken to show co-sponsors of **HR 69**.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Keith, Kerr, LeMaster, Lewis, Little, Long, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates. Nays 0.

Representative Richardson moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 70, by Representatives Richardson and Arnold: A RESOLUTION in loving memory and honor of Steve Bennett, Powell County Sheriff, who succumbed in the line of duty.

Representative Richardson moved the adoption of the following **HR 70**:

HR 70, A RESOLUTION in loving memory and honor of Steve Bennett, Powell County Sheriff, who succumbed in the line of duty.

The duty of man is plain and simple, and consists but of two points; his duty to God, which every man must feel; and his duty to his neighbor.

WHEREAS, the heroes of mankind are the mountains, the highlands of the moral world; and

WHEREAS, Kentucky Sheriffs and their deputies heroically proffer their lives on a daily basis, for the security and safety of the citizens of the Commonwealth, and are held in the highest regard and esteem by the citizens they so unselfishly serve; and

WHEREAS, Steve Bennett, Powell County Sheriff, was killed in the line of duty on Thursday, January 30, 1992, at the age of forty; and

WHEREAS, Powell County Sheriff Steve Bennett leaves behind him his wife, Rosie Briscoe Bennett; a son, Steve L. Bennett, two daughters, Jennifer L. Bennett and Missy R. Nickell; his father, Orville Bennett; two brothers, C. B. Bennett and Orville L. Bennett; and five sisters, Jan Barnett, Joan Moatts, Jill Robinson, Joy Wilcox, and Judy Howard; and

WHEREAS, the passing of Steve Bennett has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement upon the passing of Steve Bennett and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That the Clerk of the House is directed to transmit a copy of this Resolution to Mrs. Rosie Briscoe Bennett, c/o Office of Powell County Sheriff, Stanton, Kentucky, and the Clay City Times, Clay City, Kentucky.

HR 70 was adopted by voice vote.

Representative Richardson moved that a call of the roll be taken to show co-sponsors of **HR 70**.

On the roll call the vote was yeas 92—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Deskins, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Worthington, Yates, Zimmerman. Nays 0.

Introduction of Bills and Resolutions

HB 411, by Representative Barrows: AN ACT relating to motor vehicle usage tax.

HB 412, by Representatives Nunn and Turner: AN ACT relating to the regulation of gambling.

HB 413, by Representatives Ward, Gray, Walker, Maggard, Hatcher, Lewis, Kerr, Sheehan, Scorsone, Barrows, Riggs, Bowling, Heleringer, Bentley, Noe, Burch and Deskins: AN ACT relating to legal services for indigent people.

HB 414, by Representative Palumbo: AN ACT relating to retirement benefits.

HB 415, by Representatives Morris and Bruce: AN ACT relating to motor vehicle installment sales contracts.

HB 416, by Representative Pritchett: AN ACT relating to tattooing.

HB 417, by Representatives Pritchett, Hancock, Little, Northup and Worthington: AN ACT relating to transportation.

HB 418, by Representatives Farrow, Barrows, Turner, Long, Napier, Hancock, McElroy, Arnold, Richardson, Moberly, Brown, Worthington and Scorsone: AN ACT relating to community river and stream protection and awareness and making an appropriation therefor.

HB 419, by Representative Morris: AN ACT relating to exemptions.

HB 420, by Representative Ballard: AN ACT relating to the practice of chiropractic.

HB 421, by Representative Burch: AN ACT relating to the certification of denturists.

HB 422, by Representative Hourigan: AN ACT relating to private prisons.

HB 423, by Representative Kerr: AN ACT relating to revolving credit plans.

HB 424, by Representative Kerr: AN ACT relating to child support.

HB 425, by Representative Rapier: AN ACT relating to teachers.

HB 426, by Representative Kerr: AN ACT relating to school employees.

HB 427, by Representative Rapier: AN ACT relating to education.

HB 428, by Representatives Reinhardt and Freibert: AN ACT proposing amendments to Sections 170, 171, and 181 of the Constitution of Kentucky relating to taxation.

HB 429, by Representatives Reinhardt and Freibert: AN ACT relating to inheritance tax.

HB 430, by Representatives Morris and Bruce: AN ACT relating to small employer health insurance.

HB 431, by Representatives Mason, Bentley, P. Clark, Gedling, Allen, Burch, McElroy, Heleringer, Hourigan, Little, Yates, Callahan, Reinhardt, Mullinix, J. Harper, Gray, Deskins, Overstreet, Ark, Rapier, Brown, Wayne, Worthington, R. Smith, Ridley, Mack, Keith, Maggard, Gee, Stumbo, Bowling, Nelson, Cyrus, Lile, Noe, T. Smith and Todd: AN ACT relating to insurance.

HB 432, by Representative Lewis: AN ACT relating to crimes and punishments.

HB 433, by Representative Lewis: AN ACT relating to insurance.

HB 434, by Representative Lewis: AN ACT relating to consumer loan companies.

HB 435, by Representative Little: AN ACT relating to oil and gas.

HB 436, by Representative Little: AN ACT relating to highways.

HB 437, by Representative Little: AN ACT relating to motor carriers.

HB 438, by Representatives Sheehan, Callahan, Donnermeyer, Kerr, K. Harper, Walker, Williams and Reinhardt: AN ACT relating to the arts.

HB 439, by Representative Geveden: AN ACT relating to the taxation of controlled substances.

HB 440, by Representative Geveden: AN ACT relating to health.

HB 441, by Representatives Geveden and Bowling: AN ACT relating to probation, shock probation, and conditional discharge.

HJR 68, by Representatives Farrow, Barrows, Turner, Long, Napier, Hancock, McElroy, Arnold, Richardson, Moberly, Brown, Scorsone and Worthington: A JOINT RESOLUTION relating to river resource and watershed resource management.

HR 71, by Representative Palumbo: A RESOLUTION proclaiming the second week of June as Arson Awareness Week.

HJR 73, by Representatives Worthington and Donnermeyer: A JOINT RESOLUTION honoring former Senator Woodford Franklin "Woody" May and naming Kentucky Highway #519, the Woody May Highway.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 401, HB 400, HB 399, HB 398, HB 397**

Banking and Insurance: **HB 396, HB 403, SB 79**

Cities: **HB 384, HB 389, HB 402, HB 394, HB 381**

Counties and Special Districts: **HB 390, HB 392, HB 410, HB 408**

Education: **HB 385, HB 407**

Health and Welfare: **HB 387**

Judiciary: **HB 383, HB 382, HB 409**

Labor and Industry: **HB 405, HB 406**

Natural Resources and Environmental Protection: **HB 386**

State Government: **HB 388**

Tourism and Energy: **HB 404**

Transportation: **HB 395, HB 391, HB 393, SB 50**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Business Organizations and Professions: **HJR 55**

Health and Welfare: **HB 352, HB 372**

Education: **HB 332, HB 375, HB 309, SB 61, SB 15, HB 349, HB 327**

Report of Committees

The Committee on Counties and Special Districts reported **HB 209**, with Committee Substitute attached thereto, and **HB 331** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county, and taxing district, the county attorney shall cause a notice of the purchase to be mailed by certified mail, return receipt requested, on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve percent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. A copy of the return receipt shall be filed by the county attorney in the office of the county clerk in the manner prescribed by the Revenue Cabinet. Failure to prepare the notice shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notice shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county, and taxing districts for taxes, the Revenue Cabinet may perform such duties. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, Chapters 131, 134 and 135.

(3) The county attorney who prepares the notice and has it mailed and filed, as provided in subsection (1) ***or (5)*** of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 shall be filed on relation of the secretary of revenue, and the petition may be sent to the cabinet, which may require revision thereof in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all such actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(5) Not withstanding the provisions of subsection (1) of this section, county attorneys of counties in which the previous year's delinquency rate, as determined by the Revenue Cabinet, was less than three percent (3%), may cause a notice of purchase to be mailed out by first class mail rather than by certified mail.

The Committee Substitute to **HB 209** is as follows:

HB 209, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

(1) Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county, and taxing district, the county attorney shall cause a notice of the purchase to be mailed by ***first class*** [~~certified~~] mail[~~, return receipt requested,~~] on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve percent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same. ***All notices returned as undeliverable shall be submitted to the property valuation administrator within thirty (30) days. The property valuation administrator shall attempt to correct inadequate or erroneous addresses, and in instances where the property has been transferred shall determine the new owner and current mailing address. All notices shall be returned to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470. Within sixty (60) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed by certified mail, return receipt requested.*** A copy of the return receipt shall be filed by the county attorney in the office of the county clerk in the manner prescribed by the Revenue Cabinet. ***However, the second notice may also be mailed by first class mail for certificates of delinquency for which the tax due is less than twenty-five dollars ($25). The second notice may be eliminated entirely for those certificates of delinquency for which the first notice was returned as undeliverable and for which the property valuation administrator has not provided corrected information.*** Failure to prepare the notice shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notice shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county, and taxing districts for taxes, the Revenue Cabinet may perform such duties. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, Chapters 131, 134 and 135.

(3) The county attorney who prepares the ***notices*** [~~notice~~] and has ***them*** [~~it~~] mailed and ***has the second notice*** filed, as provided in subsection (1) of this section, and performs his other duties in respect to the certificate of delinquency, shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and such commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 shall be filed on relation of the secretary of revenue, and the petition may be sent to the cabinet, which may require revision thereof in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all such actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

HB 331, AN ACT relating to the solemnization of marriages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.050 is amended to read as follows:

(1) Marriage shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Judges of the Circuit Court, county judges/executive, judges of the District Court, and such justices of the peace ***and fiscal court commissioners*** as the Governor or the county judge/executive authorizes; or

(c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

(2) At least two persons, in addition to the parties and the person solemnizing the marriage, shall be present at every marriage.

The Committee on Economic Development reported **HB 89**, with Committee Substitute and Committee Title Amendment attached thereto, and **HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 89, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The mission of the Commonwealth's economic development system shall be to achieve the best quality of life for all Kentuckians through long-term strategic planning and implementation that fosters growth in jobs and incomes and enables communities, businesses, governments, and individuals to compete in the global marketplace.

(2) The goals for the Commonwealth's economic development system shall be as follows:

(a) By the year 1993, Kentucky will have an economic development partnership of government, business, education, communities, and individuals that provides a coordinated planning and implementation process which establishes government priorities for action and accountability, supports rural and urban communities to invest in their own futures, assists businesses to acquire the resources to compete, and prepares individuals for work in high quality jobs; and

(b) By the year 2000, Kentucky will have people and institutions with the capacity to adapt to future change; a skilled, competitive workforce; thriving communities throughout the state; and increased wealth and high quality jobs with greater opportunities to compete for them.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context indicates otherwise:

(1) "Authority" means the Kentucky Economic Development Finance Authority, except as used in KRS 154.655 to 154.705 and in Section 37 of this Act;

(2) "Board" or "Board of the partnership" means the governing body of the Kentucky Economic Development Partnership as created and established in Section 3 of this Act;

(3) "Commonwealth" means the Commonwealth of Kentucky;

(4) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(5) "Local community economic development interest" means any local business or economic development interest, including, but not limited to, chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;

(6) "Industrial entity" means any corporation, partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;

(7) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods of processes,

or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

(8) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

(9) "Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act;

(10) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(11) "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(12) "Project" means an endeavor approved by the partnership or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(13) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;

(14) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (12) of this section;

(15) "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

(16) "State" means the Commonwealth of Kentucky; and

(17) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky Economic Development Partnership is created and established as a de jure municipal corporation, a public body corporate and politic, a public subdivision of the Commonwealth of Kentucky, and a public agency within the meaning of KRS 61.805 and 61.870, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through economic development.

(b) The partnership shall not be included for administrative purposes within an existing department or program cabinet as prescribed in KRS 12.015. The partnership shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 42.005.

(c) The partnership shall serve as the Commonwealth's lead economic development agency and shall exercise the following functions:

1. Strategic planning;

2. Finance;

3. Business assistance;

4. Marketing and promotion;

5. Community development;

6. Workforce development;

7. Innovation; and

8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The partnership shall be governed by a board of directors consisting of twenty-one (21) members, four of whom shall be the Governor, the president of the partnership, the secretary of workforce development, and the secretary of finance and administration. The following four (4) members shall represent education: the presidents of the University of Kentucky and the University of Louisville, the commissioner of the Department of Education, and the chairman of the Council on Higher Education. Pursuant to subsections (3), (4), and (5) of this section, six (6) members representing local economic development interests, one (1) from each Congressional district of the Commonwealth, shall be appointed by the Governor. Seven (7) members shall be selected pursuant to subsection (6) of this section representing various private sector businesses and industries of the Commonwealth.

(3) By September 1, 1992, the chairpersons representing local community economic development interests, as defined in Section 2 of this Act, within each Congressional district of the Commonwealth shall meet and shall nominate three (3) persons from the private sector within that district as candidates for appointment to the board of the partnership representing local community economic development interests from which the Governor shall appoint one (1) person.

(4) Subsequent to the effective date of this Act and before September 1, 1992, the staff of the Research and Planning Division, which has been transferred to the partnership from the former Cabinet for Economic Development, shall notify and conduct meetings of the chairpersons of local economic development interests as defined in Section 2 of this Act for the purpose of facilitating the selection of community representative nominees pursuant to this action; thereafter, the board of the partnership shall prescribe the procedures for notifying and conducting such nominating meetings.

(5) The initial appointments of local community economic development interests representatives to the board of the partnership as prescribed in subsection (3) of this section shall be as follows: members representing the first and fifth Congressional districts shall be appointed for a period of two (2) years; members representing the second and fourth Congressional districts shall be appointed for a period of three (3) years; and members representing the third and sixth Congressional districts shall be appointed for a period of four (4) years. All succeeding appointments shall be four (4) years each.

(6) Seven members representing the private sector shall be appointed by the Governor for terms of four (4) years after their initial appointments as provided in this subsection.

(a) Five (5) members of the board of the partnership representing private sector businesses and industries located in the Commonwealth shall be appointed as follows:

1. One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the governing body of the Kentucky Industrial Development Council and shall have an initial term of one (1) year;

2. One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the governing body of the Associated Industries of Kentucky and shall have an initial term of two (2) years;

3. One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the governing body for the Kentucky State AFL-CIO and shall have an initial term of two (2) years;

4. One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the governing body for the Kentucky Farm Bureau Federation and shall have an initial term of three (3) years; and

5. One (1) member shall be appointed by the Governor from a list of three (3) nominees submitted by the governing body for the Kentucky Chamber of Commerce and shall have an initial term of four (4) years.

(b) Two (2) members shall be appointed by the Governor from the private sector from among various businesses and industries in the Commonwealth which are not otherwise represented on the board of the partnership. The initial appointments shall be as follows: one (1) member whose term shall expire two (2) years from the date of appointment; and, one (1) member whose term shall expire four (4) years from the date of appointment.

(c) In making the nominations and appointments, the recommending authorities and the Governor shall attempt to assure representation from large and small businesses, minorities and both major political parties in the state.

(7) Vacancies on the board of the partnership which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any local community board member or private sector member misses more than two (2) consecutive meetings of the board of the partnership, then that position shall be declared vacant and filled in accordance with this subsection.

(8) The board of the partnership shall meet quarterly and at other times upon call of the chairman or vice chairman.

(9) A quorum shall be a majority of the total membership of the board of the partnership.

(10) A majority of those voting shall be required to organize and conduct the business of the partnership, except that a majority of the entire board of the partnership shall be required to hire or fire the president of the partnership and adopt or amend the strategic plan.

(11) Individual board members shall have no authority to control or direct the operations of the partnership or the actions of its officers and employees, including the president.

(12) Members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall be the chairman of the board of the partnership.

(2) The board of the partnership shall elect from among the private sector members the vice chairman of the board of the partnership who shall serve as chairman upon the absence of the Governor. After an initial term which shall expire December 31, 1994, the term of office of the vice chairman shall be for a period of two (2) years.

(3) The president of the partnership shall serve as secretary of the board of the partnership.

(4) The board may establish an executive committee consisting of the chairman, the vice chairman, the secretary of the board, and not more than three (3) additional board members selected jointly by the chairman and vice chairman. The executive committee shall have such authority as the board delegates to it, except that the board shall not delegate to the executive committee the authority to take actions requiring approval by a majority of the entire board under subsection (10) of Section 3 of this Act.

(5) The president and other officers and employees of the partnership shall not be required to disclose confidential information concerning existing businesses or business prospects with which the partnership is dealing, including the identity of the businesses, to members of the board other than the executive committee. The executive committee shall provide advice and assistance to the president in negotiations with existing and prospective businesses. In the event the partnership enters into an agreement with a business entity which requires approval by the General Assembly, the agreement shall be presented by the president to the board, which shall make a recommendation of approval or disapproval of the agreement to the General Assembly.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The board of the partnership shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

(1) Serving as the governing body of the lead state agency for economic development;

(2) Suing and being sued;

(3) Adopting, using and altering at will a corporate seal;

(4) Approving economic development programs and projects;

(5) Selecting the president of the partnership and setting his salary;

(6) Approving the state's strategic economic development plan and subsequent implementation plans;

(7) Providing for and directing the state's economic development strategic planning process;

(8) Evaluating the performance and effectiveness of the Commonwealth's economic development systems, including:

(a) The establishment of benchmarks; and

(b) Program review;

(9) Reporting to the Governor, the General Assembly, and the people of the Commonwealth regarding its functions, duties, and responsibilities, including, but not limited to:

(a) The Commonwealth's strategic economic development plan;

(b) Program initiatives and implementation plans;

(c) Systems evaluations;

(d) Benchmarks;

(e) Program evaluation; and

(f) Activities of the partnership;

(10) Soliciting, borrowing, accepting, receiving, investing and expending funds from any public or private source;

(11) Making grants, loans, and investments; guaranteeing and insuring loans, leases, bonds, notes, or other indebtedness, whether public or private; issuing letters of credit; and making loans to financial institutions to facilitate financing of all or part of an export-related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(12) Constructing, acquiring by gift, purchase, installment purchase, or lease, and reconstructing, improving, repairing, or equipping any project or any part of a project; and entering into a lease for the use or sale of a project;

(13) Making loans and participating in the making of loans; undertaking commitments to make loans and mortgages; buying and selling loans and mortgages at public or private sale; rewriting loans and mortgages;

discharging loans and mortgages; foreclosing on mortgages and commencing any action to protect or enforce a right conferred upon the partnership or placed within the control, authority, and responsibility of partnership under the provisions of this chapter; bidding for and purchasing property which was the subject of the mortgage at a foreclosure or other sale, and acquiring or taking possession of the property and, in that event, completing, administering, paying the principal and interest on obligations incurred in connection with the property; and disposing of and otherwise dealing with the property in a manner as may be necessary or desirable to protect the interests of the partnership;

(14) Entering into a lease for the use or sale of a project; acquiring or contracting from any person, public entity, corporation, partnership, or entity, leaseholds, real or personal property or any interest in real or personal property; owning, holding, clearing, improving, and rehabilitating and selling, assigning, exchanging, transfering, conveying, leasing, mortgaging, or otherwise disposing of or encumbering leaseholds, real or personal property, or any interest in real or personal property as is convenient for the accomplishment of the purposes of this chapter;

(15) Procuring insurance against any loss in connection with the partnership's property, assets, or activities;

(16) Charging, imposing and collecting fees and charges in connection with any transaction, and providing for reasonable penalties for delinquent payment of fees or charges;

(17) Indemnifying and procuring insurance indemnifying members and officers of the partnership, members and officers of authorities transferred to the partnership pursuant to Sections 108 to 110 of this Act, and members and officers of the finance committee of the Kentucky Economic Development Finance Authority as provided in Section 18 of this Act from personal loss or accountability from liability asserted by any person on the bonds or notes of the partnership or authority, or any personal liability or accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or by reason of acquisition, construction, ownership, or operation of any project funded in whole or part by the partnership or authority; or by reason of any other action taken or the failure to act by the partnership or authority;

(18) Mortgaging or creating security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of the bonds or notes issued by the partnership;

(19) Conveying or releasing a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under the terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes or as may otherwise be agreed with the holders of the bonds or notes;

(20) Issuing bonds and notes including, but not limited to, commercial paper; refund bonds, and notes; paying the costs of issuance of bonds and notes; and paying interest on bonds and notes;

(21) Making and entering into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers;

(22) Employing consultants and other persons and employees as may be required in the judgment of the partnership, essential to its operations, functions, and responsibilities;

(23) Providing technical assistance regarding any economic or job development project, program, or activity;

(24) Delegating any powers, duties, responsibilities, and authority to any division, agency, or authority under its control and administration;

(25) Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative body under its control and jurisdiction;

(26) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as prescribed in this chapter and governing the powers, duties, and responsibilities delegated to any administrative body transferred to the partnership pursuant to Sections 108 to 110 of this Act or otherwise placed within the control and responsibility of the partnership; and

(27) Doing all other things necessary or convenient to achieve the objectives and purposes of the partnership which are not explicitly prohibited by statute.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In the selection and appointment of the first president of the partnership, three (3) members appointed by the Governor and three (3) private sector members appointed by the vice chairman of the board of the partnership shall set the qualifications for the position of the president, employ a national search firm and conduct a nationwide search for candidates, and appoint from that list of candidates the first president of the partnership. The selection shall be by unanimous vote of the selection committee.

(2) The president of the partnership shall be a person with significant experience and established reputation as an economic development professional.

(3) The first president of the partnership selected in accordance with this section shall be appointed by the board of the partnership no later than December 31, 1992, and serve at the pleasure of the board of the partnership.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) All subsequent appointments of the president of the partnership shall be made by the board of the partnership, and he shall serve at its pleasure.

(2) The president of the partnership shall be the chief operating officer for the Kentucky Economic Development Partnership and shall possess the professional qualifications appropriate for that office as determined by the board of the partnership.

(3) The board of the partnership shall set the salary of the president.

(4) The president shall be responsible for the day-to-day operations of the partnership and shall report and submit on an annual basis implementation plans to the board of the partnership as provided in Section 8 of this Act, submit the strategic plan for economic development to the board of the partnership in accordance with the provisions of Sections 12 to 13 of this Act, to submit program evaluation reports to the board of the partnership in accordance with the provisions of Section 14 of this Act, to carry out policy and program directives of the board of the partnership, to coordinate programs of the partnership with all other agencies of state government having economic development responsibilities, to appoint all personnel of the partnership, and to carry out all other duties and responsibilities assigned to him by the board of the partnership.

(5) The president of the partnership shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The president of the partnership shall present annually to the board of the partnership for its review and approval implementation plans for the approved strategies as set forth in the Commonwealth's approved strategic economic development plan for which funds will be expended by the partnership or other independent agencies receiving funds from the partnership.

(2) Any agency receiving funds from or through the partnership shall submit annually implementation plans to the board of the partnership for its review and approval.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall have authority to initiate such new programs as it deems appropriate, including, but not limited to:

(a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment. If this program is created, the board of the partnership may contract for its administration with the Commonwealth venture fund;

(b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the board of the partnership may contract for its administration with the Kentucky Science and Technology Council, Inc.;

(c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;

(d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;

(e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;

(f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;

(g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the division in developing responses to suit specific needs of Kentucky businesses and industries;

(h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;

(i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;

(j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.

1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.

2. Communities having deficiencies should meet the stated criteria through assistance from readily available regional and local facilities and institutions; and

(k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall have the authority to contract for the provision of any economic development function or service with private firms or public institutions provided that such contracts meet the following conditions:

(a) They are based on competitive requests for proposals;

(b) They incorporate strict performance standards and accountability criteria;

(c) They require periodic audit;

(d) They are subject to regular rebidding; and

(e) Where appropriate, they leverage other private and public funds.

(2) Wherever feasible, the partnership shall contract for the provision of functions and services rather than establishing new governmental structures.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall establish a statewide network of information transfer and assistance linkages with appropriate local economic development agencies and entities providing economic development services and financing.

(2) The purpose of the network shall be to facilitate strategic planning and coordinate service delivery by providing ready access by communities and businesses to all aspects of partnership operations and to all providers of economic development assistance, and by providing the partnership with ready access to the most complete and up-to-date information concerning communities, businesses, and economic development service providers.

(3) The network shall employ, to the greatest extent feasible, compatible hardware and software and common databases in order to ensure a free flow of information and assistance among the components of the network.

(4) In those communities and regions which do not have appropriate existing economic development organizations or agencies, the partnership shall serve as a catalyst to bring together the elements of private businesses, education, government, and community leaders necessary to form a local or regional economic development operation. Upon the establishment of an appropriate organization, it shall become an element of the statewide economic development network.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The framework for the strategic plan shall include the following elements:

(a) Mission Statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(2) The goals as specified in Section 1 of this Act should not be considered static, but dynamic, and therefore shall be reviewed for relevancy at least every four (4) years.

(3) Plan horizon and frequency of updates shall be as follows:

(a) The planning horizon for the Commonwealth's strategic economic development plan shall be for a period of not less than five (5) nor more than ten (10) years.

(b) The board of directors of the Kentucky Economic Development Partnership shall prepare and adopt a strategic economic development plan for Kentucky within one (1) year from the effective date of this Act and shall update the plan every two (2) years thereafter.

(4) The strategic economic development planning process shall include the broadest participation of all public and private interests including, but not limited to, state agencies, local, regional and statewide associations with interest in economic development, and members of the various industrial sectors.

(5) In the preparation and finalization of recommendations contained in the Commonwealth's strategic economic development plan, the board of the partnership shall conduct at least one (1) public hearing with due legal notice given in accordance with KRS Chapter 424.

(6) In the preparation of the Commonwealth's strategic economic development plan, the board of the partnership may employ consultants and other experts deemed necessary and appropriate for the purposes of this chapter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The strategic economic development plan shall include, but not be limited to: a review, reconfirmation, modification of stated goals; an analysis of the current world economy and its impact on the economy of Kentucky and the nature of the competitive environment within which Kentucky's workforce and businesses must compete; an analyses of broad trends of economic change; the identification of the position of Kentucky's workforce, businesses, and communities relative to the external economic environment; an statewide and regional assessment of Kentucky's economic strengths and weaknesses; identification of strategies, objectives, and actions to be taken to improve Kentucky's competitive position with focus given to human resources development, infrastructure, capital, technology, entrepreneurship, modernization, quality of life, and institutional development.

(2) Under each strategy there shall be included a discussion of the objectives to be established within a set time frame, including:

(a) Programs to be established and administered;

(b) Funding required; and

(c) Public policies to be pursued.

(3) In the development of the initial strategic economic development plan, the partnership shall be guided by, but not limited to, the following principles:

(a) Economic development shall be a partnership of government, private business, local communities, and education;

(b) Growth of jobs and incomes shall come from new business creation in Kentucky, existing Kentucky businesses, and attraction of new business to Kentucky;

(c) Strategies for economic development shall focus on:

1. Systems, not programs;

2. Regions and sectors, not individual businesses;

3. Decentralization;

4. Participation by users;

5. Helping communities to help themselves;

6. Activities that will make Kentucky products globally competitive;

7. Education and assistance, as well as financing;

8. Financing as an investment;

9. Retaining and growing Kentucky businesses;

10. Creating high value job opportunities to all who have prepared themselves; and

11. Encouragement of private sector investment; and

(d) Partnership strategies shall remain flexible to keep Kentucky competitive in a rapidly changing environment.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board of the partnership shall establish objective benchmarks to measure the performance of Kentucky's economy and progress toward achievement of the mission statement, goals and guiding principles. Criteria for the benchmarks shall be:

(a) Use of the statistical information commonly provided by governmental agencies, or specific data gathered by authorization of the board of the partnership;

(b) Comparison of regions and areas within the Commonwealth;

(c) Comparisons of Kentucky to other states, the nation, and international areas; and

(d) Inclusion of measures of income, earnings, and employment.

(2) Examples of appropriate benchmarks may include, but are not limited to:

(a) Kentucky's gross state product as compared with the midwestern and southeastern states and the United States gross national product;

(b) Personal income data used to compare Kentucky to national income and an average of benchmark states;

(c) Wage and salary growth compared by counties, regions, and states; and

(d) Earnings-weighted job indices to compare metropolitan areas, rural areas, and other subdivisions of the Commonwealth.

(3) The University of Kentucky, Center for Business and Economic Research, and the University of Louisville, Bureau of Economic Research, annually shall prepare jointly and submit to the Governor, the General Assembly, and the partnership a report detailing and grading Kentucky's progress with regard to each benchmark. The board of the partnership shall publish the report and make available to the public at no cost.

(4) The board of the partnership shall evaluate the effectiveness of established implementation activities.

(5) The partnership shall conduct periodic evaluations of projects funded or otherwise assisted by the partnership to determine the return on partnership investments and to ensure compliance with commitments made as conditions of partnership investment. Results of the evaluations shall be reported to the board of the partnership, the General Assembly, and the public.

(6) The board of the partnership may retain outside independent agencies to evaluate the effectiveness of economic development programs and systems and to certify the results of reports prepared pursuant to subsection (3) of this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership may establish one or more regional offices and provide staff as necessary to perform functions as prescribed by the board of the partnership.

(2) The partnership may establish regional advisory boards consisting of the same components as the partnership, namely, government, private business, communities, and higher education; and prescribe their functions and responsibilities.

(3) The partnership may contract with existing economic development agencies as necessary to perform functions as prescribed by the board of the partnership.

SECTION 16. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board of the partnership shall develop and prepare for submission to the 1994 Regular Session of the General Assembly, a personnel system and job classification for all employees for the partnership.

(2) Except as prescribed in subsection (3) of this section, until a new personnel system is established and authorized by the General Assembly, employees of the partnership shall be governed by the existing state personnel rules and regulations.

(3) The president of the partnership and the heads of major functional areas as approved by the board of the partnership shall be exempt from the salary limitation as set forth in KRS 64.640.

(4) The president and employees of the partnership shall be subject to the provisions of KRS 18A.140 in the same manner as they apply to employees of the classified service.

SECTION 17. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The president of the partnership and the directors of other state agencies and entities receiving state funds for programs and activities which may affect state economic development shall cooperate in the coordination of those programs and activities to achieve the successful implementation of the state's strategic economic development plan.

(2) The board of the partnership shall compile a list of state agencies and the extent to which they have direct programmatic involvement in Kentucky's economic development systems. This information shall be presented to the General Assembly before each regular session for the purpose of considering programmatic and budget adjustments.

SECTION 18. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established within the Kentucky Economic Development Partnership the Kentucky Economic Development Finance Authority which shall have all powers, duties, and responsibilities delegated to it by the partnership or as otherwise provided by law, including, all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority, and the Commonwealth's Federal Community Development Block Grant Program, which have been transferred to partnership pursuant to Sections 108 to 109 of this Act, and the economic development bond program prescribed in Section 30 of this Act.

(2) Any interest, right, or cause of action held in whole or in part by any person, corporation, partnership, government agency, or entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise enter into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board of the partnership, shall not be impaired or otherwise diminished.

(3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the partnership.

(4) The authority shall be governed by a committee of five (5) persons appointed by the board of the partnership. Any person appointed to the committee shall have experience and expertise in finance.

(5) Two (2) members initially appointed to the committee by the board shall have a term of one (1) year each, and three (3) members initially appointed to the committee by the board shall have a term of two (2) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of two (2) years.

(6) Any person appointed to the committee shall be eligible for reappointment.

(7) The members of the committee shall elect biennially from their membership the following officers: chairman, vice chairman, and secretary-treasurer.

(8) The committee shall prepare bylaws and procedures applicable to the operations of the committee and the authority and submit them to the board of the partnership to be promulgated as administrative regulations in accordance with KRS Chapter 13A.

(9) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars ($100) for each regular meeting of the committee and shall be entitled to reimbrsement for all necessary expenses in connection with the performance of their duties.

(10) A majority of the entire membership of the committee shall be required to conduct any business of the authority.

SECTION 19. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) No project shall be funded in whole or part by the authority unless first approved by the committee pursuant to administrative regulations promulgated by the board of the partnership in accordance with KRS Chapter 13A.

(2) Lending decisions made by the committee shall be based, if possible, feasible, and not otherwise preclude by federal or state law, on utilizing state funds to leverage private sector investment.

(3) The authority shall cooperate with the Cabinet for Human Resources in facilitation of KRS 194.245(1).

Section 20. KRS 154.005 is amended to read as follows:

It shall be the purpose of ***the Kentucky Economic Development Finance Authority*** [~~this chapter to create a body corporate and politic to be known as the "Kentucky Development Finance Authority" which shall exist and operate to help diversify the economy of this state,~~] to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 21. KRS 154.043 is amended to read as follows:

(1) The authority may***, upon approval of the board of the partnership,*** borrow money and issue bonds or notes ***in accordance with Section 31 of this Act and other provisions of this chapter appertaining***, subject to KRS 42.420, for the following purposes:

(a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for the cost of a project or any part thereof; to make loans pursuant to subsection ***(11) of Section 5 of this Act*** [~~(18) of KRS 154.041~~] for an export related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

(b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section; or

(c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its ***governing committee*** [~~chairman or other officer~~] to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds; or

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following convenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter.

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the Circuit Court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way effect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have

notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the ***governing committee of the*** authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

Section 22. KRS 154.180 is amended to read as follows:

(1) On or before October 1, ***1992*** [~~1988~~], and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, which is in progress,~~] along with an updated cost [~~of a project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky ***Economic*** Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction or alteration, financed or facilitated in whole or in part by the authority [~~granted by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] shall be reported to the Kentucky Department of Employment Services, Cabinet for Human Resources, and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This ***construction activity*** report [~~shall be entitled "K.D.F.A. Construction Activity Report" and~~] shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

[~~(4) If the authority fails to deliver the written project status report, K.D.F.A. Construction Activity Report, or the overview report to the appropriate agency as specified in this section, within fifteen (15) days after the required due date, the salary of the executive director of the Kentucky Development Finance Authority shall be withheld until such report is received.~~]

SECTION 23. KRS 152.260 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The following words and terms ***as used in Sections 23 to 29 of this Act***, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(2) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, and installation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, and installation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, and installation of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(3) "Assessment" means the job development assessment fee authorized by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(4) "Authority" means the Kentucky [~~Rural~~] Economic Development ***Finance*** Authority ***as created in Section 18 of this Act*** [~~created by KRS 152.262 to 152.298~~].

(5) "Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(6) "Commonwealth" means the Commonwealth of Kentucky.

(7) "Economic development project" means and includes the acquisition of any real estate in a qualified county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition and installation of manufacturing facilities on the real estate, for lease by the authority to an approved company for use and occupancy by the approved company or its affiliates for manufacturing purposes.

(8) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity engaged in manufacturing which meets the standards promulgated by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(9) "Financing agreement" means any agreement entered into, pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], on behalf of the authority or other lenders or both and an approved company with respect to an economic development project.

(10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution, and related office facilities in respect thereof; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of minerals.

(11) "Qualified county" means any county certified as such by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(12) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

(13) "Revenues" shall not be considered state funds.

SECTION 24. KRS 152.262 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth, and particularly those residing in qualified counties, depends in large measure upon the development and growth of industry in the Commonwealth.

(2) The General Assembly hereby finds and declares further that it is in the best interest of the Commonwealth to induce the location of manufacturing facilities within the qualified counties of the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs within the qualified counties that but for the inducements to be offered by the authority to approved companies as herein provided would not exist and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth and qualified counties.

(3) The General Assembly hereby finds and declares further that the authority granted by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] and the purposes to be accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of manufacturing facilities within qualified counties is of paramount importance, mandating that the provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] be liberally construed and applied in order to advance the public purposes.

SECTION 25. KRS 152.266 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The ***Kentucky Economic Development Finance*** Authority shall have ***in addition to the powers provided in this chapter*** all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], including, but without limiting the generality of the foregoing, the power ***to***:

(1) [~~To~~] Provide and finance economic development projects pursuant to the provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], and cooperate with qualified counties and eligible companies in order to promote, foster and support economic development within the qualified counties;

(2) [~~To~~] Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees, for the purpose of gathering information with respect to qualified counties, eligible companies, and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~]; ***and***

(3) [~~To~~] Negotiate the terms of and enter into financing agreements with approved companies, and in connection therewith to acquire, convey, sell, mortgage, finance, or otherwise dispose of any property, real or personal, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor;

[~~(4) To appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in KRS 152.262 to 152.298 and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;~~

~~(5) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the authority is a party;~~

~~(6) To include in any borrowing the amounts deemed necessary by the authority to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees, and other expenses necessary or incident to the borrowing;~~

~~(7) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate its purposes, and necessary to administer the procedures and program as provided for in KRS 152.262 to 152.298;~~

~~(8) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of KRS 152.262 to 152.298, including any financing agreements with state agencies or any political subdivisions of the Commonwealth under which funds may be pledged by or to the authority for the payment of its bonds;~~

~~(9) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;~~

~~(10) To sue and be sued in its own name, plead and be impleaded;~~

~~(11) To maintain an office in the city of Frankfort and at any other place or places as it may determine;~~

~~(12) To adopt an official seal and alter the same at pleasure;~~

~~(13) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;~~

~~(14) To employ fiscal consultants, attorneys, appraisers, investment advisors, trustees and other consultants, agents and employees required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;~~

~~(15) To invest any funds held by the authority or its agents or trustees, including, but not limited to, the proceeds of bonds issued under KRS 152.262 to 152.298, reserve or other funds, or any moneys not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by KRS 386.020; and~~

~~(16) To exercise any or all of the general corporate powers of a nonprofit corporation organized under the laws of the Commonwealth and not inconsistent with the provisions of KRS 152.262 to 152.298.~~]

SECTION 26. KRS 152.276 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Each year the authority shall ***under its rural economic development assistance program***, on the basis of the final unemployment figures calculated by the Department of Employment Services within the Cabinet for Human Resources, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in four (4) of the most recent five (5) consecutive years and shall certify those counties as qualified counties. [~~Any county with a population of nine thousand (9,000) or less, according to the annual population figure calculated by the U.S. Bureau of the Census, may also be certified as a qualified county by the authority, regardless of the county's annual unemployment.~~] If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate above the state average, then the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] unless the financing agreements required herein are entered into by all parties within one (1) year after the date of the decertification.

(2) The authority shall ***establish the procedures and*** [~~promulgate~~] standards for the determination and approval of eligible companies and their economic development projects ***by the promulgation of administrative regulations in accordance with KRS Chapter 13A***. These standards shall give greatest weight to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project. No economic development project which will replace manufacturing facilities existing in the state shall be approved by the authority. With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. After a diligent review of relevant materials and completion of its inquiries, the authority may by resolution of its ***governing***

committee [~~board of directors~~] designate an eligible company to be an approved company and authorize the undertaking of its economic development project in the qualified county.

SECTION 27. KRS 152.278 IS REPEALED AND REENACTED AS NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the authority, and the approved company, except that each financing agreement shall include the following provisions:

(1) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(2) The financing agreement shall specify that the annual obligations of the approved company pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(3) (a) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

1. A one hundred percent (100%) credit against the Kentucky state income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid under the respective financing agreement; plus

2. The aggregate assessment withheld by the approved company in each year.

(b) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(4) (a) The financing agreement shall provide that the assessments, when added to the credit for the Kentucky state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year, however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

(b) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(5) The financing agreement shall provide that:

(a) It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

(b) Upon the default by the approved company in the obligation to render its annual payment, the authority shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and sell the economic development project at public or private sale, or to pursue any other remedies available under the Kentucky Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

SECTION 28. KRS 152.280 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The approved company shall be entitled to a credit against the Kentucky corporate income tax liability mandated by KRS Chapter 141, on such income as may result from the operation of the approved project; the credit shall be equal to the total amount of the liability, not to exceed the total debt service paid under the respective financing agreement.

(2) Thirty (30) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the state income tax liability for the preceding year of each approved company with respect to an economic development project financed through the issuance of bonds and the amounts of any tax credits taken pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

SECTION 29. KRS 152.282 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 TO READ AS FOLLOWS:

(1) The approved company may require that each employee, as a condition of employment, agrees to pay a job development assessment fee, not to exceed six percent (6%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project.

(2) Each employee so assessed shall be entitled to credits against Kentucky income and local occupational taxes as follows:

(a) Two-thirds (2/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit of Kentucky income tax withheld as provided by KRS 141.350;

(b) One-third (1/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the taxable year in the jurisdiction in which the economic development project is located.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall lapse on the date the bonds are retired.

SECTION 30. KRS 152.052 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the ***Kentucky Economic Development Finance Authority*** [~~secretary of the Cabinet for Economic Development~~]. The ***board of the partnership shall promulgate*** [~~secretary of the Cabinet for Economic Development shall adopt~~] administrative regulations ***in accordance with KRS Chapter 13A*** for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; and

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond ***Oversight*** Committee, the ***authority*** [~~secretary of the Cabinet for Economic Development~~] shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the ***president of the partnership*** [~~secretary~~] to the ***Capital Projects and Bond Oversight*** Committee. Subsequently, the ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) The Kentucky General Assembly hereby finds that encouraging development of new markets for recycled products in order to extend landfill capacity in the Commonwealth is an important economic development strategy. ***The partnership*** [~~Beginning with February 26, 1991, the Cabinet for Economic Development~~] shall set as a target a minimum of twenty percent (20%) of the funds available to the bond program for funding projects which create or expand markets for materials recovered or diverted from the solid waste stream notwithstanding the direct number of jobs to be created or retained by such projects.

(5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. Airport construction and renovation projects shall be eligible for funding under this section. The ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the ***board of the partnership*** [~~secretary of the Finance and Administration Cabinet~~], and the State Property and Buildings Commission, under the provisions of KRS 56.440 [~~and 56.720~~].

(6) Following the approval by the ***board of the partnership*** [~~secretary of the Finance and Administration Cabinet~~] and the State Property and Buildings Commission, the project shall be presented by the ***president of the partnership*** [~~Cabinet for Economic Development~~] with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(8) The ***partnership*** [~~Cabinet for Economic Development~~] shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

(9) The ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall provide semiannual reports to the Interim Joint Committee on Agriculture and Natural Resources on the programs carried out by the cabinet to promote market development for recycled products. In the semiannual reports, the secretary shall cite specific recycling-related projects and investments made under the economic development bond program and other programs within the cabinet's jurisdiction.

SECTION 31. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of the Kentucky Revised Statutes, the Kentucky Economic Development Partnership is authorized to exercise the following power:

(a) The partnership may provide for the issuance of its Kentucky economic development partnership revenue bonds, for the purpose of providing funds and moneys to the partnership to enable it to exercise and fulfill the powers and authority set forth in Section 5 of this Act, to enter into agreements with governmental agencies and private companies, corporations, partnerships, and other such entities, acquire and lease projects to governmental agencies and private companies, corporations, partnerships, and other such entities, purchase obligations of governmental agencies issued for economic development projects, and make loans or grants for economic development projects, and to enable the partnership generally to carry out and effectuate its proper corporate purposes under this chapter. In anticipation of the issuance of the revenue bonds, the partnership may provide for the issuance at one (1) time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of the state. The principal of and the interest on the revenue bonds or notes shall be payable solely from partnership revenues. Any such notes may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the partnership deem it financially practicable to pay the notes directly from partnership revenues, the notes may be paid from any available partnership revenues. Prior to the issuance of the bonds or notes, the partnership shall submit any proposed issue to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with provisions of KRS 45.810.

(b) The revenue bonds or notes of the partnership shall be dated and may be redeemable prior to maturity at the option of the partnership at prices and under terms and conditions determined by the partnership. Any bonds or notes shall bear interest at the rate or rates, shall be payable annually or at shorter intervals, and may bear conversion privileges determined by the partnership. Notes shall mature at the time or times not exceeding five (5) years from their date or dates, and revenue bonds shall mature at the time or times not exceeding forty (40) years from their date or dates as may be determined by the partnership. The partnership shall determine the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer of the partnership whose signature or facsimile of whose signature shall appear on any revenue bonds or notes shall cease to be such officer before the delivery thereof, the signature of the facsimile shall be valid and sufficient for all purposes, the same as if the officer had remained in office until the delivery. At the time of issuance of variable rate revenue bonds, the partnership may designate individuals or institutions which, in the sole judgment of the partnership, have financial market expertise to serve as agent for the partnership for establishing and changing from time to time, while the variable rate revenue bonds remain outstanding, the rate of interest to be borne by and the price to be paid for the revenue bonds. The rate-setting procedures and authority of each agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the partnership at the time of issuance of the revenue bonds. At the time of the issuance of the revenue bonds, the partnership shall establish the maximum interest rate to be borne by the revenue bonds. The partnership shall retain the right to remove or replace any agent at any time and for any reason. The partnership may provide that said bonds or notes may be executed only with the facsimile signatures of its officers, but said bonds or notes shall be executed with the manual signature of a bank or trust company designated by the partnership as registrar and paying agent.

(c) All revenue bonds or notes issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of the state. The partnership may sell the revenue bonds or notes in the manner, either at public or private negotiated sale, and for the price, as it may determine will best effect the purpose of this chapter. If revenue bonds are sold at public, competitive sale, the revenue bonds shall be sold after newspaper advertising conforming to the requirements of KRS Chapter 424 and competitive bids for the sale of the revenue bonds shall be opened and read publicly by the partnership at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(d) In its proceedings authorizing the issuance of revenue bonds or notes, the partnership shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of partnership revenues, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the partnership may be authorized and issued from time to time. The proceedings, determinations, and enactments of the partnership shall specify that the payment of principal of and interest on all partnership revenue bonds and notes shall constitute a first charge and lien against all partnership revenues before any partnership revenues are used, applied, and disbursed for any other valid purposes of the partnership, including the payment of operation and maintenance costs incident to the operation of the partnership.

(e) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the partnership to enter into agreements or interim financing agreements with governmental agencies and private companies, corporations, partnerships, and other entities, to acquire and lease projects to governmental agencies, private companies, corporations, partnerships and other entities, to purchase obligations of governmental agencies issued for economic development projects, to make loans or grants to governmental agencies, private companies, corporations, partnerships, and other such entities for economic development projects, or for any purpose authorized in this chapter. Revenue bond or note proceeds may also be used and applied for the payment of ordinary and necessary expenses in connection with issuance of the revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale thereof, if discount bids are authorized and permitted by the partnership, administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.

(f) Prior to the preparation of definitive revenue bonds or notes, the partnership may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive revenue bonds or notes when the revenue bonds or notes shall have been executed, and are available for delivery. The partnership shall also provide for the replacement of any revenue bonds or notes that shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the partnership without obtaining the consent or acquiescence of any cabinet, division, commission, board, department, or agency of the state other than the Finance and Administration Cabinet, and without any other proceedings or the happening of any other conditions or things except as specifically

required by this chapter and the provisions of the resolution or resolutions of the partnership authorizing the issuance of the revenue bonds or notes.

(2) The partnership shall assume all bond issuance and refunding authority, power, duties, and obligations as existed on the effective date of this Act for the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority, the Kentucky Infrastructure Authority under KRS Chapter 224A, the Kentucky Agricultural Finance Corporation under KRS Chapter 247; the ability of any of the foregoing organizations to issue industrial revenue bonds under KRS Chapter 103; and the ability of any of the foregoing authorities to issue economic development revenue bonds as provided in this chapter. The partnership shall also have the authority and power to issue revenue bonds for any other economic development activity as set forth in this chapter.

(3) The partnership shall for purposes of the Kentucky Revised Statues be deemed to be the successor issuer for all of the currently issued and outstanding bond issues by the organizations set forth in subsection (2) of this section. The partnership shall have the authority and the power to reaffirm all existing bond obligations of the organizations in subsection (2) of this section and shall perform all duties, obligations, and requirements as may be necessary and required under the bond documents relating to each and every such issue. The partnership shall also, in regard to each and every such issue, exercise its authority and power as set forth in this chapter.

(4) In the discretion of the partnership, any revenue bonds or notes issued under the provisions of this chapter may be secured by a trust indenture by and between the partnership and corporate trustee which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. A trust indenture, or the resolution of the partnership providing for the issuance of revenue bonds or notes, may pledge or assign for the security of the revenue bonds or ntoes, all or any part of the totality of partnership revenues received and to be received. The trust indenture or resolution of the partnership may contain provisions for protecting and enforcing the rights and remedies of the bondholders which may be reasonable and proper, and not in violation of law, including, but not limited to, covenants and provisions setting forth the duties of the partnership in relation to the purposes to which revenue bonds and note proceeds may be applied; the disposition or pledging of assets and partnership revenues; and the custody, safeguarding, and application of all partnership revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of revenue bonds, notes, or partnership revenues, to furnish such indemnifying bonds, or to pledge such securities as may be required by a trust indenture or resolution of the partnership. Any trust indenture or partnership resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders, where a trust indenture has been entered into. In addition to the foregoing, any trust indenture or partnership resolution may contain other provisions which the partnership determines to be reasonable and proper for the further security of the holders of any revenue bonds or notes. All expenses incurred in carrying out the provisions of a trust indenture or bond proceedings may be treated as a part of the cost of operating the partnership, and may be paid from partnership revenues pledged or assigned to the payment of the principal of and the interest on revenue bonds or notes, or from any other funds properly available to the partnership. However, the payment of operational costs shall, as provided in subsection (1) of this section, be subordinate to the payment of principal of and interest on partnership revenue bonds or notes from partnership revenues, it being intended that these principal and interest requirements shall be secured by a prior and paramount lien on gross partnership revenues.

(5) Notwithstanding any other provision to the contrary, any trust indenture or partnership resolution shall provide that, except to the extent the rights afforded to bondholders by this section shall be enforceable and enforced by a trustee under a trust indenture rather than by the bondholders, any holder of revenue bonds or notes issued by the partnership or any of the coupons appurtenant thereto, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights generally arising under the laws of the Commonwealth, or granted under this chapter, or under a trust indenture, or by the resolution of the partnership authorizing the issuance of revenue bonds or notes, and may specifically enforce and compel by mandamus the performance of all duties required by this chapter, or by trust indenture, or partnership resolution, to be performed by the partnership or by any officer or employee thereof, including, but not limited to, the prompt and full enforcement of the terms and conditions of all assistance agreements, to which the partnership is a party.

(6) The partnership is hereby authorized to provide for the issuance of refunding revenue bonds or notes for the purpose of refunding any revenue bonds or notes then outstanding, whether issued by the partnership under the provisions of this chapter or one (1) of the agencies, authorities or organizations referenced in subsections (2) and (3) of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these revenue bonds or notes, and, if determined advisable by the partnership, for the additional purpose of providing further funds for the carrying out of the proper public and governmental purposes of the partnership. The issuance and sale

of the refunding revenue bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the partnership in respect of the same, shall be governed by the provisions of this chapter which relate to the issuance of revenue bonds or notes, insofar as these provisions may be applicable.

(7) Refunding revenue bonds or notes may be sold or exchanged directly for outstanding revenue bonds or notes of the partnership, and if sold, the proceeds thereof shall be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of these outstanding revenue bonds or notes. Pending the application of the proceeds of any refunding revenue bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium on the revenue bonds or notes being refunded (and if so provided or permitted in the partnership resolution authorizing the issuance of the refunding revenue bonds or notes, or in the trust indenture securing the same, to the payment of any interest on the refunding revenue bonds or notes and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America which shall mature or which shall be subject to redemption by the holders thereof at the option of such holders not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

(8) Revenue bonds and notes issued by the partnership under the provisions of this chapter are hereby declared and deemed to be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations of the partnership are hereby declared and determined to be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth, for the purpose for which the deposit of bonds, notes, or obligations of the Commonwealth is now, or may hereafter be, authorized by law.

(9) Revenue bonds or notes issued by the partnership under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof; but the bonds shall be payable as to principal and interest solely from partnership revenues provided therefor under the provisions of this chapter. All such revenue bonds or notes shall contain on the face thereof a statement to the effect that neither the Commonwealth nor the partnership shall be obligated to pay the same, or the interest thereon, except from partnership revenues, as defined in this chapter; and that neither the faith and credit, nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of and interest on such revenue bonds or notes.

(10) The Commonwealth, for the specific use and benefit of the partnership, may cause to be submitted to the voters of the state in a manner provided by Sections 49 and 50 of the Constitution of Kentucky, from time to time, propositions for the incurring of state indebtedness represented by general obligation bonds of the Commonwealth, the proceeds of which are to be made available to the partnership and used and employed by the partnership for all proper partnership purposes.

SECTION 32. KRS 152.020 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created an agency of the state government to be known as the Department for Existing Business and Industry, which shall ***on the effective date of this Act be transferred to the Kentucky Economic Development Partnership pursuant to Section 108 of this Act*** [~~constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employees as are provided by law~~].

(2) The department ***and its divisions may be reorganized by the board of the partnership, as it deems necessary, in accordance with the provisions of KRS 12.028.*** [~~, subject to the provisions of KRS 12.010 to 12.130, shall be organized into a Division of Research and Planning, a Division of Minority Business, a Division of Small Business Assistance, a Division for Existing Industries, a Business Information Clearinghouse, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.~~

~~(3) The executive officer of the department shall be the commissioner of the Department for Existing Business and Industry. The commissioner shall be appointed by the Governor and shall serve at the pleasure of the Governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such,~~

~~shall have authority to enter into contracts, subject to the approval of the secretary of the Cabinet for Economic Development and the secretary of the Finance and Administration Cabinet, when such contracts are deemed necessary to implement and carry out the program of the department.~~

~~(4) The Division of Research and Planning, the Division of Minority Business, the Division of Small Business Assistance, and the Division for Existing Industries shall each be headed by directors appointed pursuant to KRS 12.050.~~

~~(5) The Office of Administrative Services shall be headed by an executive director appointed by the secretary, with the approval of the Governor, pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the Office of the Secretary of the Cabinet for Economic Development.~~

~~(6) The Business Information Clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.~~]

SECTION 33. KRS 152.025 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created in the ***partnership*** [~~Cabinet for Economic Development~~] an Office of Business and Technology. The office shall:

(a) Be headed by an executive director who shall be appointed by the ***president of the partnership pursuant to Section 7 of this Act*** [~~secretary of the Cabinet for Economic Development pursuant to KRS 12.050~~];

(b) [~~Be attached to the office of the secretary of the Cabinet for Economic Development and shall~~] Report directly to the ***president of the partnership*** [~~secretary~~];

(c) Be responsible for coordinating and monitoring the various activities being carried out in the Commonwealth by state agencies that relate to adapting advanced technologies to the work place; and

(d) Review and analyze the possibility of establishing research and technology centers in the Commonwealth.

(2) There is created in the ***partnership*** [~~Cabinet for Economic Development~~] an Office of Industrial Development. The office shall be headed by an executive director who shall be appointed by the ***president of the partnership pursuant to Section 7 of this Act*** [~~secretary of the Cabinet for Economic Development pursuant to KRS 12.050~~].

(3) The cost of administrative facilities and services for the Office of Business and Technology and the Office of Industrial Development shall be paid by the ***partnership*** [~~Cabinet for Economic Development~~].

SECTION 34. KRS 152.060 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The Department ***for Existing Business and Industry*** shall assemble and keep in the offices of the department such information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities, and such other information as may be useful in executing the provisions of ***Sections 32 to 36 of this Act*** [~~KRS 152.010 to 152.080~~]. Such information shall be made available to any enterprise which, in the discretion of the ***president of the partnership*** [~~commissioner~~], is legitimate and which contemplates location or operation within the Commonwealth. Such information shall, in the discretion of the ***president of the partnership*** [~~commissioner~~], be made available to any governmental or private agency interested in securing the location or operation of any such legitimate enterprise within the Commonwealth.

(2) The department shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials, and such other information as may be useful in securing the location of such enterprise in the Commonwealth.

(3) The department shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The department shall carry out programs relating to industrial and commercial development, research and planning, community

and industrial services, marketing development, small and minority business enterprise, international trade and reverse investment, and other programs designated by the ***board of the partnership*** [~~Governor~~].

SECTION 35. KRS 152.070 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***for Existing Business and Industry*** shall prepare and publish, or cause to be prepared and published, maps, economic and industrial resources surveys of the state and of individual communities and areas, directories of manufacturers, exporters, and industrial services, surveys as related to natural resources and industrial and commercial needs, studies of agri-business opportunities, surveys of forestry industries potential, studies of industrial site characteristics, and other matters relating to the economic development of the Commonwealth as it shall deem necessary and advisable.

SECTION 36. KRS 152.075 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department for Existing Business and Industry shall be responsible for energy resource information. The ***partnership*** [~~Cabinet for Economic Development~~] may enter into a contractual agreement between the department and the Kentucky Geological Survey and such other organizations deemed necessary in order to perform this function.

SECTION 37. KRS 152.045 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The Kentucky Recycling Brokerage Authority, referred to in this section as the "authority," is created by this section to further local governments' efforts to develop reliable markets for their recyclables. The authority shall be composed of seventeen (17) members as follows:

(a) The ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], who shall serve as chairman;

(b) The secretaries of the Finance and Administration and Natural Resources and Environmental Protection Cabinets, and the commissioner of the Department of Local Government; and

(c) Thirteen (13) members appointed by the Governor including representatives of municipal and county governments; legislators; citizens representing environmental interests; and industry representatives.

(2) These seventeen (17) persons and their successors in office shall constitute the Kentucky Recycling Brokerage Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by this section, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(3) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and function as members.

(4) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~] shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's action and proceedings, which shall be public records open to inspection.

(5) On or before July 1, 1991, the Governor shall appoint thirteen (13) members of the authority as follows: five (5) shall serve terms ending July 1, 1995; four (4) shall serve terms ending July 1, 1994; and four (4) shall serve terms ending July 1, 1993. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed.

(6) The authority, with staff assistance from the ***partnership*** [~~Economic Development Cabinet~~], shall act as a state broker for local governments seeking to sell recyclable materials. The authority shall:

(a) Identify local, state, and interstate markets for recyclables;

(b) Issue requests for proposals as well as directly contact potential buyers;

(c) Negotiate contracts with potential buyers on behalf of participating local governments or local groups;

(d) Arrange details of contracts including price collection schedules, reimbursements, and quality assurance provisions;

(e) Conduct workshops and seminars throughout the state to train recycling center and solid waste facility operators on how to prepare and process materials that will be marketed through the brokerage office;

(f) Issue routine market bulletins containing pricing information and other program details to all local governments, both those participating as well as nonparticipants; and

(g) Handle all paperwork for the brokering service including contracts, invoices, weigh slips, and records of collections and issue revenue checks to participants.

(7) Local governments participating in the Kentucky Recycling Brokerage Authority shall be assessed a brokerage fee of fifteen percent (15%) of the sale revenue or two dollars ($2) per ton of recyclables sold, whichever is greater.

(8) In addition to any brokerage fees received, the authority may receive and accept from any governmental agency, nonprofit organization, or from private enterprise appropriations, grants or contributions of money, property, labor, or other things of value, to be used to carry out the functions of the authority.

(9) The authority shall annually issue financial and informational reports to the General Assembly which shall contain full descriptions of tonnage volumes handled, revenues generated, contracts entered into, market summaries and reviews, and other information under which a full review of the brokerage program is possible. The report shall be due on July 1 of each year.

(10) The authority shall also include in its July 1, 1993 annual report to the General Assembly the following:

(a) A description and analysis of the Commonwealth's existing recycling industry, the types, and estimated amounts of recovered material being separated or reprocessed;

(b) An analysis of the projected long-term capacity of existing markets to absorb materials generated by materials recovery or recycling programs;

(c) An analysis of potential markets in the Commonwealth, in other states, or in foreign countries for recovered material or products manufactured using recovered material from this Commonwealth;

(d) An analysis of institutional, economic, and technical barriers to the use of recovered material or products manufactured using recovered materials;

(e) Recommendations for actions which may be taken to increase demand for recovered materials or products;

(f) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to recover materials;

(g) Recommendations on categories of materials which should be recovered in this Commonwealth, given existing and potential markets for such materials;

(h) Recommendations for a public education program to be implemented by the Natural Resources and Environmental Protection Cabinet and the Environmental Council to provide information to the public and to business and industry on the benefits of materials recovery and recycling and on the availability of those materials or products; and

(i) A review of state and local government procurement policies and recommendations for actions which might be taken to encourage waste reduction and recycling.

(11) In subsequent years the authority shall include in its annual report the following:

(a) Any revisions which the authority determines are necessary to its initial report;

(b) An analysis of changes that have occurred with markets for recovered material and products manufactured using recovered material since the last report; and

(c) Any other recommendations to facilitate the development of markets for recovered material and products manufactured using recovered material in this Commonwealth.

Section 38. KRS 154.315 is amended to read as follows:

The purpose of ***KRS 65.510 to 65.530, 139.483, 154.315 to 154.340*** [~~KRS 65.510 to 65.530, 139.483, 154.310 to 154.345~~] is to create ***within the partnership a program*** [~~a state commission~~] to aid in the promotion and development of river-related industry, agriculture, and commerce in Kentucky; to aid in the promotion and development of local port authorities as authorized by KRS 65.510 to 65.650; to aid in the promotion and development of industrial districts, parks, and sites for accommodating industrial complexes that utilize the rivers and river-related resources; to analyze, plan, and aid in systematically developing river-related resources by the development of services and facilities; to promote the development of industrial parks and terminal facilities for manufacturing and distribution industries for attracting and serving private and public enterprises that are directly or indirectly river-oriented; to promote the exportation of Kentucky made products in foreign commerce, especially as related to the utilization of the navigable waterways; and to establish the powers necessary or appropriate to carry out and effectuate the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 39. KRS 154.330 is amended to read as follows:

(1) The ***partnership*** [~~commission~~] may make application to the proper federal authorities for the establishment of a foreign trade zone wherever and whenever such a zone is desirable. KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~] will constitute legislative authority and approval of such applications, as required by federal law.

(2) Nothing contained in this section shall be construed to prohibit any corporation organized under KRS Chapters 271B and 273 from being organized and chartered for the purposes of establishing, operating and maintaining a foreign trade zone within this state pursuant to KRS 271B.18-060.

(3) As used in this section, "foreign trade zone" means such a zone authorized by 19 U.S.C. sec. 81.

Section 40. KRS 154.335 is amended to read as follows:

The ***partnership*** [~~commission~~] may enter into any and all contracts in its own name for planning, engineering, promotion, and development, consistent with the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], and may enter into contracts for these purposes with any local port authority authorized by KRS 65.510 to 65.650 or any other public or private organization.

Section 41. KRS 154.340 is amended to read as follows:

The ***partnership*** [~~commission~~] may disburse any and all funds appropriated by the Legislature for purposes consistent with KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], any funds received from any state agency, and may apply for, receive, and disburse funds from the federal government, or any other public or private organization or agency for carrying out the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 42. KRS 154.360 is amended to read as follows:

(1) There is created ***within the partnership*** a Kentucky Waterway Marina Development ***Program*** [~~Commission~~]. The ***partnership*** [~~commission~~] shall study various plans and recommendations that are proposed concerning marina development along Kentucky navigable waterways. Based on these studies, the ***partnership*** [~~commission~~] shall formulate a comprehensive plan, recommend state and local legislation for the development of marinas, and coordinate the implementation of the plan and legislation. The ***partnership*** [~~commission~~] may make grants of money to units of local government for the construction or improvement of any marina, if the grants are consistent with the plans, standards, and criteria established by the ***partnership*** [~~commission~~].

(2) If necessary to further the accomplishment of its purposes, the ***partnership*** [~~commission~~] may do the following:

(a) Conduct all studies necessary for the performance of its duties;

(b) Publicize, advertise, and distribute reports on its purposes, objectives and findings;

(c) Provide recommendations in matters related to its functions and objectives to political subdivisions in and adjacent to the waterway corridor and to other public and private agencies;

(d) If requested, act as a coordinating agency for programs and activities of other public and private organizations that are related to its objectives;

(e) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise; ***and***

(f) Hold, use, improve, maintain, operate, own, manage, or lease, as lessor or lessee, real or personal property, or any interest in that property[~~; and~~

~~(g) Employ an executive director and other persons as necessary to carry out its duties~~].

(3) The ***partnership*** [~~commission~~] may receive grants and appropriations from federal, state, and local governments, individuals, foundations, and other organizations. The commission may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out its activities under this section [~~and KRS 154.365 to 154.385~~].

(4) [~~The commission may appoint advisory committees, the membership of which may include representatives of municipal parks, county parks, national parks, and riverport authorities.~~

~~(5)~~] The goal for any marina project under this section [~~and KRS 154.365 to 154.385~~] shall be to create employment in the private sector.

Section 43. KRS 154.675 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.660 to 154.705, there is hereby created the Enterprise Zone Authority of Kentucky consisting of nine (9) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Municipal League; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; two (2) members appointed by the Governor to serve at large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the ***board of the Kentucky*** [~~secretary of the Cabinet for~~] Economic Development ***Partnership***[~~; and the secretary of economic development~~].

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The ***Kentucky*** [~~Cabinet for~~] Economic Development ***Partnership*** shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 44. KRS 154.750 is amended to read as follows:

(1) There is hereby created ***within the Kentucky Economic Development Partnership,*** a council which shall be known as the "Kentucky Export Council." The council shall be composed of nineteen (19) members appointed by the ***board of the partnership*** [~~Governor. The council shall be attached to the Cabinet for Economic Development for administrative purposes~~].

(2) The members of the council shall be residents of the Commonwealth and shall be appointed with a view to promoting and facilitating international exports from the Commonwealth. The council as a whole shall possess the broadest background and understanding of international export trade.

(3) Initial appointments of the members of the council shall be made as follows: six (6) of the members shall be appointed for a term of two (2) years each; six (6) of the members shall be appointed for a term of three (3) years each; six (6) of the members shall be appointed for a term of four (4) years each. Upon expiration of the terms of the initial appointees their successors shall each be appointed for a term of four (4) years. If a vacancy occurs, the ***board of the partnership*** [~~Governor~~] shall appoint a successor for the remainder of the unexpired term. The council shall be nonpartisan and shall be appointed without reference to party affiliation. The members of the council shall serve without compensation. [~~It is recommended that the Governor designate the secretary of the Commerce Cabinet as chairman of the council.~~] Prior to the first meeting of the council in each fiscal year, the ***council*** [~~Governor~~] shall ***elect from among its membership a chairman and*** [~~appoint one (1) of the members of the council~~] vice chairman.

(4) The council shall meet quarterly and shall hold special meetings on the call of the chairman. Ten (10) members shall constitute a quorum. The council may adopt such administrative regulations as it may deem necessary to govern its procedures.

Section 45. KRS 154.755 is amended to read as follows:

(1) The council shall serve as the coordinating body for international exports of businesses of the Commonwealth. It shall use all resources available to it to enhance the international export capabilities of business in the Commonwealth. Immediately on being organized, the council shall review existing programs for the enhancement of international exports being carried on by the Commonwealth and make recommendations thereon. The council shall be assisted in carrying out its functions by the personnel of the ***partnership*** [~~Cabinet for Economic Development~~].

(2) At least thirty (30) days prior to the end of each fiscal year the council shall make a written report to the Governor and the General Assembly appraising the international export policies and programs of the Commonwealth; reviewing the extent to which international exports have provided employment and income; and, recommending to the Governor and the General Assembly international export policies and programs which will enhance the economic growth and development of the Commonwealth. [~~The council shall particularly examine and study the merits of establishing an export development authority in the Commonwealth. The results of such examination shall be made a part of the written report.~~

~~(3) Boards, commissions, agencies, departments and institutions of the Commonwealth shall assist the council and shall provide it with access to relevant records, data, information and statistics, unless such access is prohibited by law.~~]

SECTION 46. KRS 155.400 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

Sections 46 to 55 of this Act [~~KRS 155.410 to 155.490~~] is known and may be cited as the "Commonwealth Venture Fund Act [~~of 1988~~]."

SECTION 47. KRS 155.410 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~], shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be used by that business to leverage additional capital investments from other sources.

(3) Twenty percent (20%) of the funds available for investment under the provisions of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be for investment in agribusiness or agriculturally related ventures.

SECTION 48. KRS 155.420 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

As used in ***Sections 46 to 55 of this Act*** [~~this chapter~~] unless the context requires otherwise:

(1) "Commonwealth Venture Fund" means the venture capital entity established and managed pursuant to ***Section 49 of this Act*** [~~KRS 155.430~~].

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; and

(d) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business" means a Kentucky based company, employing less than one hundred (100) people, with capitalization limits as follows:

(a) Less than five hundred thousand dollars ($500,000) for a nonmanufacturing firm; or

(b) Less than one million five hundred thousand dollars ($1,500,000) for a manufacturing firm.

(6) "Capitalization" means owners' equity, common stock, preferred stock and retained earnings.

(7) "Agribusiness" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor or an agriculturally related business.

SECTION 49. KRS 155.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) (a) To carry out the purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~], a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4), (5), and (6) of this section, with the name Commonwealth venture fund to provide financing to Kentucky based businesses including, but not limited to, corporations and partnerships.

(b) Until such time as the fund is invested in such small businesses, it may be invested in such obligations and securities as the panel or the managing firm deems prudent.

(2) The financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to five hundred thousand dollars ($500,000).

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) The secretaries of the Kentucky Finance and Administration[~~, Commerce~~] and Revenue Cabinets ***and the president of the Kentucky Economic Development Partnership***. The ***president of the partnership*** [~~secretary of finance and administration~~] shall act as chairman of the panel and the secretary of ***finance and administration*** [~~commerce~~] shall act as vice chairman;

(b) Five (5) members appointed by the Governor for a term not exceeding four (4) years. The terms of these members shall expire and cease upon the election referred to in paragraph (c);

(c) When the fund has raised a minimum of five million dollars ($5,000,000) in commitments for investment and an initial closing has been held, the investors in the fund shall elect five (5) representatives to the panel for a two (2) year term. At the conclusion of that initial two (2) year term, the investors in the fund at that time shall elect five (5) representatives to the panel to serve terms as shall be established by the panel. The investors shall be entitled to one (1) vote for each one thousand dollars ($1,000) in capital contributed; and

(d) After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member.

(4) The panel shall be staffed by the ***Kentucky Economic Development Partnership under the direction of the president of the partnership*** [~~Finance and Administration and Commerce Cabinets as directed by the secretary of finance and administration acting in his capacity as chairman of the panel~~].

(5) The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] and on prudent financial and investment practices and standards.

(6) Any private financial entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel shall select an applicant to be the managing firm of the Commonwealth venture fund.

(7) The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees, and determine the policy for dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund. The panel shall not authorize

any dividends to be paid from income received from investments made pursuant to subsection (1)(b) of this section until such income has been reinvested in a small business for at least five (5) years.

(8) Administrative regulations necessary to carry out the purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be promulgated and issued by the panel. The guidelines and regulations shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be promulgated.

SECTION 50. KRS 155.440 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Subject to ***Section 51 of this Act*** [~~KRS 155.450~~], a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1989, if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1988, 1989, 1990 and 1991. The total amount of credit that a taxpayer may receive under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (0.4).

(2) The amount of credit that a taxpayer may receive under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] for a particular taxable year shall not exceed the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1994. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] for any subsequent tax year.

SECTION 51. KRS 155.450 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The total amount of credits allowed under ***Sections 46 to 55 of this Act*** [~~this chapter~~] shall not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 52. KRS 155.460 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~].

SECTION 53. KRS 155.470 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) To receive the credit provided by ***Section 50 of this Act*** [~~KRS 155.440~~], a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the Revenue Cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the Commonwealth venture fund as to the qualified investment by the taxpayer.

(2) The managing firm of the Commonwealth venture fund shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment the following:

(a) The name, address, and employer identification number of the Commonwealth venture fund;

(b) The name, address, and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the Revenue Cabinet shall be filed by the managing firm of the Commonwealth venture fund on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the managing firm of the Commonwealth venture fund and to the panel on or before that same date.

SECTION 54. KRS 155.480 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) If a qualified investment which is the basis for a credit under ***Sections 46 to 55 of this Act*** [~~this chapter~~] is redeemed by the fund or withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the Revenue Cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

SECTION 55. KRS 155.490 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The reporting requirements from the managing firm to the panel, authorized in ***subsection (7) of Section 49*** [~~KRS 155.430(7)~~] of this Act, shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the Governor and the Legislative Research Commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

Section 56. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~office of the secretary, Cabinet for Economic Development, for administrative purposes~~].

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the commissioner of employment services, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], the secretary of labor, the chairman of the Council on Higher Education, and the chief state school officer. Thirteen (13) members shall be appointed by the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~], including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~] shall serve for a term of four (4) years, except that in making the initial appointments, the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~] shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the ***board of the partnership*** [~~Governor~~] may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the ***board of the partnership*** [~~Governor~~] for cause.

(6) The ***board of the partnership*** [~~Governor~~] shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) [~~The board shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.~~

~~(10)~~] All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 57. KRS 153.215 is amended to read as follows:

(1) There is established ***within the Kentucky Economic Development Partnership as created in Section 3 of this Act*** the Kentucky arts council (hereinafter referred to as "the council") [~~which shall perform functions pursuant to KRS 153.210 to 153.235~~].

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky [~~pursuant to KRS 153.210 to 153.235~~].

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the ***board of the partnership*** [~~governor~~] shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the ***board*** [~~Governor~~] shall make all appointments for a term of four (4) years.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties [~~under KRS 153.210 to 153.235~~].

(5) From the council membership the ***board*** [~~Governor~~] shall appoint a chairman and a vice chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) ***All personnel funds, equipment, and property of the council shall be transferred to the partnership from the Department of Arts*** [~~The council shall be attached to the department of the arts for administrative purposes~~].

Section 58. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan [~~developed in coordination with the Department of the Arts~~];

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor ***and the Kentucky Economic Development Partnership*** on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions [~~provided in KRS 153.210 to 153.235~~];

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council ***as authorized by the Kentucky Economic Development Partnership or otherwise by law*** [~~as permitted by KRS 153.210 to 153.235~~];

(9) [~~Receive applications, interview, and recommend to the Governor three (3) persons as nominees for appointment as the director of the Division of Arts, Department of the Arts;~~

~~(10) Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the commissioner of the Department of the Arts and with the state purchasing provisions of KRS Chapters 45 and 45A;~~

~~(11)~~] Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(10)[~~(12)~~] [~~Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and~~] Do and perform any acts ***and as may be delegated to the council by the board of the Kentucky Economic Development Partnership*** [~~that may be necessary to carry out the purposes of KRS 153.210 to 153.235~~].

Section 59. KRS 141.347 is amended to read as follows:

State income tax that would otherwise be owed by the corporation to the Commonwealth, except for ***subsection (3)(a) of Section 27 of this Act*** [~~KRS 152.278(3)(a)~~], by an approved company on the income generated or arising from an approved company operation or activity as an economic development project, shall be determined as follows:

(1) A corporation which is an approved company subject to income tax under KRS 141.040 shall compute the income tax due pursuant to KRS 141.010(13) to 141.010(14) including net income from the economic development project, subject to the applicable tax rate on taxable income.

(2) The corporation shall then compute the net income of the approved company as defined in subsection (1)(a) of this section excluding the net income from the economic development project subject to the applicable tax rate on taxable income.

(3) The difference between the tax computed in subsections (1) and (2) of this section equals the income tax to be permitted to be applied as a credit by an approved company toward income tax owed, such credit not to exceed the total debt service under the respective financing agreement.

(4) Net income excluded from taxable income in computing the tax due under subsection (2) of this section shall be determined under a separate accounting method reflecting only the gross income, deductions, expenses, gains and credits allowed under KRS Chapter 141.

(5) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] and the allowable income tax which an approved company may retain under ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

Section 60. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.

(5) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111 and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

(7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.

(8) "Construction" means and includes, but is not limited to:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Natural Resources Cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.

(11) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multimunicipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

(14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.

(15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the Natural Resources Cabinet, Public Service Commission, or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas or electric utility; or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(17) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance, and delivery of long-term debt obligations to effect assistance to said governmental agency.

(18) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(19) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(20) "Natural Resources Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(21) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(22) ***"Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act.***

(23) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(24)[~~(23)~~] "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(25)[~~(24)~~] "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Natural Resources Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the Department of Local Government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(26)[~~(25)~~] "Project" or "solid waste project" means construction, renovation or acquisition of a solid waste facility which shall be publicly owned.

(27)[~~(26)~~] "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

(28)[~~(27)~~] "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet.

(29)[~~(28)~~] "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(30)[~~(29)~~] "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.

(31)[~~(30)~~] "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(32)[~~(31)~~] "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

(33)[~~(32)~~] "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

(34)[~~(33)~~] "State" means the Commonwealth of Kentucky.

(35)[~~(34)~~] "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(36)[~~(35)~~] "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in KRS 224A.120.

(37)[~~(36)~~] "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

(38)[~~(37)~~] "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(39)[~~(38)~~] "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(40)[~~(39)~~] "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground waters.

(41)[~~(40)~~] "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

Section 61. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of seven (7) members. The secretaries of the [~~Economic Development,~~] Finance and Administration[~~,~~] and Natural Resources and Environmental Protection Cabinets[~~,~~] and the ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~commissioner of the Department of Local Government~~] shall serve as ex officio members of the authority. On or before August 1, 1992, the Governor shall additionally appoint ***four (4)*** [~~three (3)~~] at large members who shall serve as follows: ***two (2)*** [~~one (1)~~] shall serve a term ending June 30, 1996; one (1) shall serve a term ending June 30, 1995; and one (1) shall serve a term ending June 30, 1994. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. The ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Finance and Administration Cabinet~~] shall serve as chairperson. The members of the authority shall choose from their ranks a vice-chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority.

(4) The authority shall ***be attached to the Kentucky Economic Development Partnership***, [~~for administrative purposes, be attached to the Finance and Administration Cabinet,~~] and shall establish and maintain offices in premises which shall be provided for that purpose by the ***partnership*** [~~Finance and Administration Cabinet~~]; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 62. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital Projects and Bond Oversight Committee of the Legislative Research Commission before approval by the Finance and Administration Cabinet ***and the Kentucky Economic Development Partnership***, may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;

(2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments or obligations of the governmental agency to be purchased by the authority;

(3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;

(4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;

(5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;

(c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;

(d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;

(e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;

(8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111 and 224A.112:

(a) The aggregate principal amount of the loan; and

(b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (1/4 of 1%), except as provided for in KRS 224A.111 and 224A.112;

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid,with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

Section 63. KRS 224A.112 is amended to read as follows:

(1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies for the construction or acquisition of infrastructure projects when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available when the authority finds that both a hardship and an extreme health hazard exist.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111 or for any infrastructure projects

on the prioritization schedule prepared by the ***Kentucky Economic Development Partnership*** [~~department of local government~~].

(6) The ***president of the partnership*** [~~department of local government~~] shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund. In establishing its prioritization schedule, the department of local government shall consider the following factors:

(a) Local employment;

(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;

(c) The relationship of the infrastructure project to the governmental agency's economic development;

(d) The reasonableness of the proposed costs;

(e) The probable effectiveness of the infrastructure project as proposed; and

(f) Any other criteria that the department of local government considers advisable.

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

Section 64. KRS 224A.113 is amended to read as follows:

The authority, the Natural Resources Cabinet or the ***board of the partnership*** [~~department of local government~~] may promulgate administrative regulations ***in accordance with KRS Chapter 13A*** to implement KRS 224A.111 and 224A.112.

Section 65. KRS 45.810 is amended to read as follows:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the Capital Projects and Bond Oversight Committee for review and recommendation. The Turnpike Authority ***and*** [~~,~~] the School Facilities Construction Commission[~~, and the Kentucky Development Finance Authority~~] shall be exempt from this review.

(2) The Capital Projects and Bond Oversight Committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the appropriations act.

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the Finance and Administration Cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the ***board of the Kentucky Economic Development Partnership or the*** secretary of the Finance and Administration Cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

Section 66. KRS 224.01-210 is amended to read as follows:

(1) The Environmental Board is established, which shall control and manage the Environmental Trust Fund. The board shall be composed of nine (9) members as follows: the secretary of the Natural Resources and Environmental Protection Cabinet, the chairman of the Environmental Quality Commission, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], and six (6) members-at-large to be appointed by the Governor. The board members shall elect the chairman.

(2) The six (6) members-at-large shall be appointed for terms of four (4) years. The remaining members shall be permanent members. The six (6) members-at-large shall be appointed from the following: two (2) from manufacturers, mineral extraction industry, or agribusiness; two (2) from the state-supported university system; one (1) from public health or environmental citizen groups; and one (1) an educator specializing in environmental education. Vacancies in the members-at-large appointments shall be filled in the same manner as originally appointed, and appointments to fill these vacancies shall be for the remainder of the unexpired term.

(3) The board shall meet at least once each calendar quarter or more often on the call of the chairman.

(4) No member of the board shall receive any salary, fee, or other remuneration for services as a member of the board but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(5) The secretary and the staff of the cabinet shall serve as staff for the board.

(6) The cabinet may provide legal representation to the board or the board may enter into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

(7) Six (6) members of the board shall constitute a quorum for conducting business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(8) The cabinet shall annually prepare a proposed program and a list of projects for public comment and review for the board's consideration.

Section 67. KRS 224.46-315 is amended to read as follows:

There shall be established a center for hazardous waste reduction, which shall be a technical information and assistance office to be located at a state-owned university, which shall facilitate and promote the commercial implementation of hazardous waste reduction technologies and procedures by providing technical and financial assistance, as available, to business and industry. The center shall be governed by a board of directors appointed by the Governor and representing the following organizations: the Kentucky General Assembly, the Natural Resources and Environmental Protection Cabinet, the ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~], the Labor Cabinet, the Department of Agriculture, the Council on Higher Education, the Kentucky Environmental Education Association, the Kentucky Municipal League, the Kentucky Chamber of Commerce, the Associated Industries of Kentucky, the Kentucky Society for Professional Engineers, the Kentucky Resources Council, and Kentuckians for the Commonwealth.

Section 68. KRS 224.46-590 is amended to read as follows:

The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~] shall cooperate with the special assistant to the Governor for coal and energy policy in examining the feasibility of a hazardous waste treatment-industrial park complex approach to the siting of hazardous waste management facilities and the promotion of industrial development. Consistent with the state policy of encouraging reuse and treatment of hazardous waste and of minimizing land disposal, the study shall be based on development of integrated facilities consisting of a variety of treatment and disposal systems at a given site associated with industrial plants. The study shall at a minimum:

(1) Survey the attitudes of various industries towards this approach;

(2) Survey public attitudes and perceptions towards this approach;

(3) Identify the advantages and disadvantages to industry, the Commonwealth, and local communities;

(4) Survey the degree to which the availability of hazardous waste management facilities has a bearing on the location of new industry;

(5) Develop a list of industry types with compatible waste streams for exchange, neutralization, or incineration;

(6) Identify economic or technical barriers to this approach; and

(7) Report its findings and recommendations to the 1982 General Assembly.

Section 69. KRS 224.46-850 is amended to read as follows:

(1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.

(2) It shall be the responsibility of the ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~Cabinet for Economic Development~~] in coordination with the Governor's Office for Coal and Energy Policy to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 70. KRS 224.46-870 is amended to read as follows:

The ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~Cabinet for Economic Development~~] and the Governor's Office for Coal and Energy Policy shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 71. KRS 224.43-815 is amended to read as follows:

(1) The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~] and the special assistant to the Governor for coal and energy policy, with the approval of the Governor and the Legislative Research Commission, may execute contracts pursuant to KRS 224.43-810.

(2) No agreements or contracts may be entered into before a regional integrated waste treatment and disposal demonstration facility has received a certificate of environmental safety and public necessity from the board established in KRS 224.46-820.

Section 72. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application, and any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by the Kentucky ***Economic Development Partnership*** [~~Development Finance Authority~~] and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109 shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission shall be authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of an alternate.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 73. KRS 153.530 is amended to read as follows:

(1) The Citizens Advisory Commission on Kentucky Films is created as an agency of state government, and it shall be attached to the Department of the Arts for administrative and budgetary purposes. The commission shall serve in an advisory capacity to the Department of the Arts in the planning and implementation of programs dealing with the film industry.

(2) The commission shall consist of nineteen (19) members appointed by the Governor, with the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~] and the commissioner of the Department of the Arts serving ex officio. The other seventeen (17) members shall be appointed by the Governor on the basis of their interest in or relationship to the development of a film industry in Kentucky, and one (1) member shall be designated as chairman. Members shall serve a term of four (4) years. Members of the commission shall receive twenty-five dollars ($25) per diem and necessary expenses for the performance of their duties.

(3) Meetings of the commission may be called by the chairman or by a majority of the commission membership. A majority of the commission membership shall constitute a quorum for the purpose of conducting commission business.

(4) The chairman of the commission, subject to the prior written approval of the commission, shall appoint an executive director who shall serve as the chief operating officer of the commission. The executive director, subject to the approval of the chairman, shall hire personnel, prescribe their duties, and fix their compensation within the limitations imposed by law.

(5) The commission shall have all necessary and appropriate powers to carry out these responsibilities:

(a) Establishment of a close working relationship with film industry representatives in this country and abroad, if appropriate;

(b) Coordination of locational activities in Kentucky;

(c) Provision of liaison activities during actual film production;

(d) Performance of all appropriate research and background work related to determination of film industry plans and requirements; and

(e) Establishment of an aggressive promotional and informational effort designed to attract film producers to Kentucky.

(6) The commission shall have the cooperation and assistance of [~~the Cabinet for Economic Development, the Department of the Arts, and~~] all [~~other~~] state agencies. Such state agencies shall interaccount the commission for goods and services utilized by the commission.

Section 74. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission shall be attached to the Office of the Secretary of the Tourism Cabinet for administrative purposes.

(2) The commission shall consist of the following eleven (11) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judges/executive of Ballard, Carlisle, Fulton, and Hickman Counties in Kentucky. Other members shall be the secretary of the Tourism Cabinet or his designee; the ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Economic Development Cabinet~~], or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical, and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman, and Fulton.

Section 75. KRS 152A.305 is amended to read as follows:

(1) The Kentucky Coal Authority, a body corporate and politic, is created by KRS 152A.300 to 152A.325 to further the cooperation of government and industry for the purpose of protecting and expanding markets for Kentucky coal. The authority shall be composed of seventeen (17) members, as follows:

(a) The secretary of the Executive Cabinet, who shall chair the authority;

(b) The Governor's special assistant for coal and energy policy, who shall serve as vice chair of the authority;

(c) The secretary of the Cabinet for Natural Resources and Environmental Protection;

(d) The secretary of the Transportation Cabinet;

(e) The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~]; and

(f) Twelve (12) members appointed by the Governor, including representatives of various interests concerned with the Kentucky coal industry, such as the owners or operators of companies involved in coal production, transportation, and consumption; citizens and persons representing environmental interests; representatives of the academic and financial communities; representatives of major labor organizations; and representatives of major coal associations. These seventeen (17) persons and their successors in office shall constitute the Kentucky Coal Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by KRS 152A.300 to 152A.325, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The Governor's Office for Coal and Energy Policy shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's actions and proceedings, which shall be public records open to inspection.

Section 76. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge

and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky ***Economic*** Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under ***subsection (12) of Section 2 of this Act*** [~~KRS 154.010(9)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky ***Economic*** Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 77. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing two hundred thousand (200,000) or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The ***secretary*** [~~secretaries~~] of the Natural Resources and Environmental Protection Cabinet, the ***president of the Kentucky Economic Development Partnership,*** [~~Cabinet for Economic Development, and~~] the commissioners of the Agriculture and Mines and Minerals Departments***,*** and the special assistant to the Governor for coal and energy policy shall be ex officio members. Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 78. KRS 342.0012 is amended to read as follows:

(1) There is hereby created the Kentucky Workers' Compensation Advisory Council which shall consist of sixteen (16) members appointed by the Governor. Each member shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(2) Vacancies shall be filled by appointment of the Governor for the unexpired term of the member whose office is vacant and shall be made within sixty (60) days of the occurrence of the vacancy.

(3) Annually, the members of the council shall elect co-chairmen. One co-chairman shall be elected by the members of the council representing labor and the other co-chairman shall be elected by the members representing management. A majority of the members of the council shall constitute a quorum for the transaction of business.

(4) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the co-chairmen or a majority of the members.

(5) The council shall be attached to the Labor Cabinet for administrative purposes, and the secretary of labor shall supply necessary staff and supplies to the council.

(6) The principal office of the council shall be located in Frankfort, Kentucky, but meetings of the council may be held at any location in the Commonwealth of Kentucky.

(7) In making appointments to the council, the Governor shall appoint eight (8) members representing labor and eight (8) members representing management.

(8) The council shall not infringe upon or assume the duties of the Labor Cabinet, ***the Kentucky Economic Development Partnership,*** [~~Cabinet for Economic Development~~] or the Department of Insurance. The council shall serve in an advisory capacity and shall make recommendations to the Governor and the legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employees; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary.

Section 79. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development,~~] the secretary of the Revenue Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the ***president of the Kentucky Economic Development Partnership*** [~~secretary for economic development~~], who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky workers' compensation funding commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 80. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the secretary of the Revenue Cabinet, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], the Speaker of the House, the President Pro Tem of the Senate, or their respective designated representatives and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Three (3) members shall serve for a period of one (1) year;

(b) Three (3) members shall serve for a period of two (2) years; and

(c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 81. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The Office of the Commissioner, with the Egg Marketing Board, the Dog Law Advisory Committee, and the Kentucky Grain Insurance Corporation attached to it for administrative purposes.

(2) The State Board of Agriculture.

(3) The Office of Market Services, which shall include the following:

(a) [~~The Division of Market Development;~~

~~(b)~~] The Division of Market Research; and

(b)[~~(c)~~] The Division of Livestock and Agricultural Services.

(4) The Office of Agri-Business Standards, which shall include the following:

(a) The Division of Weights and Measures;

(b) The Grain and Hay Division;

(c) The Food Distribution Division; and

(d) The Division of Shows and Fairs.

(5) The Office of State Veterinarian, which shall include:

(a) The Division of Animal Health and Administrative Records; and

(b) The Division of Animal Health Field Enforcement.

(6) The Office of Consumer Safety, which shall include the following:

(a) The Division of Pest and Noxious Weeds;

(b) The Division of Pesticides and;

(c) The State and Federal Meat Lab Division.

(7) The Division of Administrative Services, which shall assume all functions, funds, property and personnel of the Division of Statistics and the Milk Marketing and Antimonopoly Commission which are abolished.

(8) The Kentucky Council on Agriculture.

Section 82. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor***, the board of the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor***, the board of the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by ***the board of the Kentucky Economic Development Partnership, or*** another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative

committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within sixty (60) days after it is filed with the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor***, the board of the Kentucky Economic Development Partnership,*** or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor***, the board of the Kentucky Economic Development Partnership,*** and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 83. KRS 42.005 is amended to read as follows:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by statutorily authorized executive action as a "department";

(2) "Division" means a major branch of a department established by statute or by statutorily authorized administrative action;

(3) "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council, office***, partnership as defined in Section 2 of this Act,*** and any other form or organization in the executive branch of government, but does not include "department," "program cabinet" or "division";

(4) "Program cabinet" means a group of departments, or departments and commissions, or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 84. KRS 65.910 is amended to read as follows:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services, and all expenditures as set forth in this section.

(2) Demographic information shall include:

(a) The name of the unit of local government;

(b) The county in which the city or special district is located;

(c) The classification of the city;

(d) The population of the unit of local government;

(e) The form of government of the city; and

(f) The area development district in which the unit of local government is located.

(3) Bonded indebtedness and debt service information shall include:

(a) The name of each project listed individually;

(b) The type of bond issue used for each project;

(c) The bonded indebtedness of each project;

(d) The debt service requirements of each project; and

(e) The specific source of debt service funds, whether local government appropriations or use of non-government funds.

(4) Lease-purchase agreement information shall include:

(a) Purpose of the agreement;

(b) Identity of the lessor;

(c) Principal amount of the agreement;

(d) Interest rate or rates for the agreement;

(e) Date the local government entered into agreement;

(f) Length of term of agreement;

(g) Current annual debt service requirements for agreement; and

(h) A list of and the purpose of any short-term renewal bank notes.

(5) Tax rate and revenue information shall include:

(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;

(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, tangible and intangible personal property, and motor vehicles; and

(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:

1. Occupational license tax on persons;

2. Occupational license tax on business net profits, gross receipts, or a flat rate;

3. Business inventory tax;

4. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;

5. Transient room tax;

6. Restaurant tax;

7. Bank shares;

8. Tobacco in storage;

9. Delinquent collections; and

10. Special purpose and other taxes.

(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:

(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;

(b) Required sticker fees on automobiles and trucks;

(c) Motor vehicles fees on taxicabs, truck-tractors, semitrailers and trailers;

(d) Coin-operated machines;

(e) Cable television;

(f) Building, electrical, and plumbing permits;

(g) Zoning permits and development impact fees;

(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;

(i) Licensing of electricians and electrical contractors;

(j) Unloading fees;

(k) Public service fees for fire protection, police protection;

(l) Ambulance service franchise fees and ambulance run fees;

(m) Animal license fees; and

(n) Any other source of license, permit or fee.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:

(a) Waterworks;

(b) Sewage treatment;

(c) Electric light, heat, and power;

(d) Gas;

(e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;

(f) Transit authority; and

(g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:

(a) Kentucky Law Enforcement Foundation Program fund;

(b) Professional Firefighters Foundation Program fund;

(c) Community development block grant funds;

(d) County or municipal road aid;

(e) Local government economic assistance funds;

(f) Net court revenues;

(g) Kentucky Infrastructure Authority funds;

(h) Economic development bonds;

(i) Kentucky ***Economic*** Development Finance Authority funds;

(j) Environmental Protection Agency funds;

(k) County or city transfers; and

(l) Any other source of state or federal funds.

(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:

(a) Parking meter receipts;

(b) Parking facility receipts;

(c) Parking violation fines;

(d) Charges for impounded vehicles;

(e) Sale of abandoned vehicles;

(f) Delinquent tax bills;

(g) Fines and forfeitures;

(h) Penalties and interest;

(i) Franchise payments for governmental services bid out to the private sector;

(j) Golf course receipts;

(k) Parks and recreation;

(l) Proceeds from sale of seized and forfeited property;

(m) Rent;

(n) Interest from investments and dividends; and

(o) Any other source of revenue or charge for service.

(10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department of Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials

in the development of information to be included in the expenditure section of the uniform financial information report.

Section 85. KRS 64.055 is amended to read as follows:

(1) The salaries of circuit clerks, payable out of the State Treasury per annum, subject to the minimum provided by subsection (2) of this section and to the calculation provided by subsection (3) of this section, shall be:

Population of County	Annual Salary
0 - 4,999	$11,000
5,000 - 9,999	14,000
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000
40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

(2) The annual compensation payable to each circuit clerk beginning on July 1, 1980, shall be two thousand dollars ($2,000) in excess of the annual compensation payable as of June 30, 1980; the annual compensation payable to each circuit clerk beginning on July 1, 1982, shall be two thousand dollars ($2,000) in excess of the annual compensation then otherwise payable including the amount calculated as the increase or decrease as provided by subsection (3) of this section.

(3) In order to equate or adjust the compensation of circuit clerks with the purchasing power of the dollar, the Department of Local Government shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the Department of Local Government, the annual compensation of circuit clerks for fiscal year 1982 and each fiscal year thereafter shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a circuit clerk receive an annual increase exceeding six percent (6%) of salary.

(4) For purposes of determining movement of Circuit Court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used:

(a) The actual calendar year 1976 salary of the Circuit Court clerk, as certified by the Administrative Office of the Courts from information supplied by the Auditor of Public Accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky ***Economic Development Partnership*** [~~Department of Economic Development~~]. This adjusted figure will be the base to compare with the salary maximums outlined above;

(b) Those clerks whose base, as determined in paragraph (a) of this subsection, does not reach the maximums outlined above, will be allowed yearly increases up to twenty percent (20%) of the base, not to exceed the maximums outlined above;

(c) Those clerks whose base, as determined in paragraph (a) of this subsection, is equal to or greater than the maximums outlined above, will be allowed a one (1) time ten percent (10%) adjustment to their base salary as determined in paragraph (a) of this subsection;

(d) The initial population determination for compensation under this section shall be based on the 1970 federal census or the "final" issue of "Current Population Reports, 1974" issued by the United States Bureau of the Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census; and

(e) The annual salary for 1978 for each Circuit Court clerk shall be no less than seventy-five percent (75%) of the maximum amount permitted for each population category.

Section 86. KRS 103.2101 is amended to read as follows:

(1) In addition to the duties specified in KRS 103.286, it shall be the duty of the Kentucky Private Activity Bond Allocation Committee to review only those projects authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1), and only off-street parking facilities, cable television, and mass communication facilities as authorized by paragraph (b) of KRS 103.200(1), whether by cities, counties, urban-county governments, air boards, riverport authorities, or the Kentucky ***Economic*** [~~Industrial~~] Development Finance Authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(2) If the committee finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.

(3) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(4) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(5) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.

Section 87. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of the Finance and Administration Cabinet, who shall be chairman of the committee; the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~]; the state budget director; the executive director of the Office for Program Administration; and the commissioner of the Department of Local Government, or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of such bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first seventy-five percent (75%) of the term shall be designated as a period in which the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

(b) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the last twenty-five percent (25%) of the term shall be designated by the committee as the period in which the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of the Finance and Administration Cabinet shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by this section shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section, or with the allocation, application, or review procedures established by the secretary of the Finance and Administration Cabinet.

Section 88. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the Superintendent of Public Instruction, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], or the executive director of the Council on Higher Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet[~~, or the commissioner of the Department for Existing Business and Industry,~~] or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 89. KRS 164.3572 is amended to read as follows:

(1) In furtherance of the Commonwealth's economic development programs, the Governmental Services Center may, upon request of the ***Kentucky Economic Development Partnership*** [~~Cabinet for Economic Development~~] and as financial and staff resources permit, develop, coordinate, implement, assist, and provide private industry with consultation, research, programs, and employee assessment services.

(2) The Governmental Services Center may enter into contractual agreements with private industry, as necessary to allow the Governmental Services Center to properly perform its duties and responsibilities as established by KRS 164.3571 to 164.3573.

(3) Any private industry whose employees or prospective employees receive the benefit of any of the Governmental Services Center's programs shall reimburse the Governmental Services Center for the costs and expenses which it incurs as a result of developing, coordinating, implementing, and conducting any of the programs or services provided in KRS 164.3571 to 164.3573.

Section 90. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state

occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;

(c) The ***president of the Kentucky Economic Development Partnership, or his designee*** [~~commissioner of the Department for Existing Business and Industry, Cabinet for Economic Development~~];

(d) The executive director of the Bluegrass State Skills Corporation;

(e) The executive director of the Governor's Council on Vocational Education;

(f) The office head for the Office of Vocational Rehabilitation;

(g) The office head for the Office of Vocational Education;

(h) The office head for the Office of Adult Education;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on Higher Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 91. KRS 151B.220 is amended to read as follows:

(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the ***president of the Kentucky Economic Development Partnership*** [~~secretary for economic development~~], the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of twenty (20) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult and Technical Education, and the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~] shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 92. KRS 247.942 is amended to read as follows:

As used in KRS 247.940 to 247.978, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Agricultural loan" means a loan made by a lending institution to any person for the purpose of financing agricultural diversification and alternative crop production; land acquisition or improvement; soil conservation; irrigation; construction; renovation or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry, and fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies or any other products employed in the production, cultivation, harvesting, storage, marketing, distribution, or export of agricultural products;

(2) "Applicant" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor or an agriculturally related business. To be considered an "applicant" under this definition, it is necessary that either:

(a) The prospective applicant be a "first-time farmer" as defined by the federal government who derives at least one-half (1/2) of his annual gross income from said endeavor or business, for three (3) years after the loan is approved. Furthermore, under this definition the prospective applicant shall not derive more than one-hundred thousand dollars ($100,000) annual net income from all sources during the fiscal year preceding the year in which the loan application is made; or

(b) The prospective applicant be a Kentucky citizen currently engaged in an agricultural endeavor; derive at least three-fourths (3/4) of his annual gross income from farming or other agricultural endeavors; and shall not derive more than fifty thousand dollars ($50,000) annual net income from all sources, including spousal income, in the tax year preceding application;

(3) "Board" means the board of directors of the corporation;

(4) "Bond resolution" or "resolution" means the formal document of the corporation authorizing its obligations;

(5) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under KRS 247.940 to 247.978;

(6) "Commissioner" means the Commissioner of Agriculture;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Corporation" means the Kentucky Agricultural Finance Corporation created by KRS 247.944;

(9) "Department" means the Department of Agriculture;

(10) "Governmental agency" means any city, county, or other political subdivision of the Commonwealth and any department, division, or public agency thereof, the federal government or any political subdivision of any other state and any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing in the area of assistance to agriculture;

(11) "Issuing agency capacity" means the action of the corporation in authorizing revenue bonds for a qualified project in accordance with the provisions of KRS 103.210 to 103.285 in which the corporation's liability is limited primarily to fiduciary duties;

(12) "Lending agency capacity" means the action of the corporation in participating directly or indirectly in the making of loans to or the purchasing of loans of qualified applicants;

(13) "Lending institution" means any bank, bank or trust company, or institutions of the farm credit system organized under the Farm Credit Act of 1971, 12 U.S.C.A. 2001 et seq., as amended, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, the federal government, or any other financial institution authorized to do business in the Commonwealth of Kentucky or operating under the supervision of any federal agency or any corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

(14) "Obligations" means any bonds or notes authorized to be issued by the corporation under the provisions of KRS 247.940 to 247.978;

(15) ***"Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act;***

(16) "Project" means any undertaking to provide for the financing of the acquisition, construction, renovation, or improvement of land, buildings, machinery, equipment, and livestock in the area of agricultural enterprise; including growing, storing, processing, warehousing, marketing, and distribution facilities in respect thereof or to provide for refinancing existing agricultural facilities;

(17)[~~(16)~~] "Trust agreement" means an indenture by and between the corporation and the corporate trustee setting forth the rights and duties of each relating to the authorization, sale, issuance, delivery, and payment of the corporation's obligations; and

(18)[~~(17)~~] "Umbrella obligation" means bonds or notes issued by the corporation in its issuing agency capacity or its lending agency capacity under the provisions of KRS 247.940 to 247.978, the proceeds of which may be used in the financing of multiple projects for two (2) or more applicants.

Section 93. KRS 247.944 is amended to read as follows:

(1) There is hereby created and established the Kentucky Agricultural Finance Corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture through the Commonwealth.

(3) The corporation shall be governed by a board of directors consisting of twelve (12) members appointed by the Governor, three (3) of whom may be ex officio members of the board as follows:

(a) The Commissioner or his designee;

(b) The secretary, Finance and Administration Cabinet, or his designee; and

(c) The ***president of the Kentucky Economic Development Partnership*** [~~Lieutenant Governor or his designee~~].

(4) The Governor may appoint eight (8) private members of the board to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, four (4) may continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the Governor may designate; at the expiration of said original terms and for all succeeding terms, the Governor may appoint a successor to the board for a term of four (4) years in each case. Of the initial eight (8) private members of the board appointed by the Governor, one (1) may be an officer from a commercial lending institution, one (1) may be an officer from a farm credit association, one (1) may be an agricultural economist, one (1) may be a tobacco farmer, one (1) may be a cash grain farmer, one (1) may be a livestock farmer, one (1) may be a dairy farmer, and one (1) may be from the equine industry. After July 13, 1990, the Governor may appoint a horticultural farmer as an additional private member of the board for an initial four (4) year term.

(5) Upon the expiration of the initial terms of the private members of the board, the Governor may appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the Governor may appoint a successor to hold office during the remainder of the term.

(6) The board of directors shall annually elect one (1) of its members as chairman and one (1) of its members as vice chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable[~~, including, but not limited to, an executive director, secretary, and legal counsel, and shall fix the compensation therefor~~].

(7) The ***partnership*** [~~executive director~~] shall administer, manage, and direct the affairs and business of the corporation[~~, subject to the policies, control and direction of the board~~]. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(8) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act

in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(9) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least seven (7) directors or by the board's executive committee.

(10) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50) for attendance at each meeting of the board or executive committee.

Section 94. KRS 247.962 is amended to read as follows:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each such report shall set forth a complete operating financial statement relating to the corporation during the year. The persons performing such audits shall furnish copies of the audit to the ***board of the partnership*** [~~secretary, Finance and Administration Cabinet,~~] and the executive director of the Division of Investment and Debt Management, where they shall be placed on file and made available for inspection by the general public.

Section 95. KRS 151.040 is amended to read as follows:

The Kentucky Geological Survey shall report periodically on its findings to the Governor and General Assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the ***Kentucky Economic Development Partnership*** [~~Department of Existing Business and Industry~~] and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the survey. The survey may issue reports, maps, and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

Section 96. KRS 151.116 is amended to read as follows:

The cabinet shall promulgate regulations to carry out the program and shall consult with the ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~] in developing those regulations. The regulations shall set out the details which are to be included in the water supply plans, the procedure for counties and their municipalities and public water systems to apply for financial assistance to pay for the plans, and the criteria and process by which the cabinet will approve plans. The cabinet shall assemble all information in a uniform data base available to all agencies and concerned entities.

Section 97. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, [~~the Cabinet for Economic Development,~~] the Public Protection and Regulation Cabinet, the Cabinet for Human Resources, the Finance and Administration Cabinet, the Corrections Cabinet, the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the secretary of the Governor's Executive Cabinet, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform such other duties as the Governor may require of them.

(3) The cabinet shall consider such matters involving policies and procedures as the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 98. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments), and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, provided, however, in the case of the Personnel Board ***and the Kentucky Economic Development Partnership as created in Section 3 of this Act***, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

    (a) Secretary of State.

    (b) Board of Elections.

4. Department of Law.

    (a) Attorney General.

5. Department of the Treasury.

    (a) Treasurer.

6. Department of Agriculture.

    (a) Commissioner of Agriculture.

    (b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

    (a) Department of State Police.

    (b) Department of Criminal Justice Training.

    (c) Office of Administration.

2. Education and Humanities Cabinet:

    (a) Department of Education.

        (1) State Board for Elementary and Secondary Education.

        (2) Education Professional Standards Board.

    (b) Department for Libraries and Archives.

    (c) Kentucky Educational Television.

    (d) Kentucky Historical Society.

(e) Kentucky Teachers' Retirement System Board of Trustees.

3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Department of Law.
   (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of Aeronautics.
   (g) Office of General Counsel.
   (h) Office of Public Relations.
   (i) Office of Personnel Management.
   (j) Office of Minority Affairs.

5. [~~Cabinet for Economic Development:~~

~~(a) Department for Existing Business and Industry.~~

~~(b) Department of the Arts.~~

~~(c) Tobacco Research Board.~~

~~(d) Kentucky Development Finance Authority.~~

~~(e) Office of Business and Technology.~~

~~(f) Office of Industrial Development.~~

~~6.~~] Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Harness Racing Commission.
(i) Kentucky State Racing Commission.
(j) Registry of Election Finance.
(k) Board of Claims.
(l) Crime Victims Compensation Board.
(m) Kentucky Board of Tax Appeals.
(n) Backside Improvement Commission.

6.[~~7.~~] Cabinet for Human Resources:

(a) Department for Health Services.
(b) Department for Employment Services.
(c) Department for Social Insurance.
(d) Department for Social Services.
(e) Department for Medicaid Services.
(f) Department for Mental Health and Mental Retardation Services.
(g) Unemployment Insurance Commission.
(h) Commission for Handicapped Children.
(i) Public Assistance Appeals Board.
(j) Office of Administrative Services.
(k) Office of Communications.
(l) Office of General Counsel.
(m) Office of Inspector General.
(n) Office of Policy and Budget.
(o) Office of the Ombudsman.

7.[~~8.~~] Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.
(b) Office of Management and Fiscal Affairs.
(c) Office of Historic Properties.
(d) Office of Financial Management and Economic Analysis.
(e) Office of Risk Management.
(f) Department for Administration.
(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

8.[~~9.~~] Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

9.[~~10.~~] Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

10.[~~11.~~] Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

11.[~~12.~~] Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

12.[~~13.~~] Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

IV. Other entities:

1. The Kentucky Economic Development Partnership.

Section 99. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) [~~Cabinet for Economic Development.~~

~~(6)~~] Public Protection and Regulation Cabinet.

(6)[~~(7)~~] Cabinet for Human Resources.

(7)[~~(8)~~] Finance and Administration Cabinet.

(8)[~~(9)~~] Corrections Cabinet.

(9)[~~(10)~~] Tourism Cabinet.

(10[~~)(11)~~] Revenue Cabinet.

(11)[~~(12)~~] Labor Cabinet.

Section 100. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky ***Economic*** Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one time, the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285 inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement or other financing agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection.

(2) Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county" and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky ***Economic*** Development Finance Authority, any air board and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 101. KRS 103.245 is amended to read as follows:

(1) For purposes of the exercise of the power of eminent domain, "building" or "industrial building" shall be deemed to include only the following: coal conversion facilities, hospitals, primary medical centers, health care clinics, convention centers, or any industrial building as defined in KRS 103.200, which is to be located in a blighted area as defined in KRS 99.010(1)(a), or any of these things, to be rented or leased to a domestic or foreign corporation by the Kentucky ***Economic*** Development Finance Authority, the city or the county by which it is acquired.

(2) An industrial building within the meaning of subsection (1) of this section may be acquired by a city or a county by purchase, gift, or condemnation. Whenever a city or a county shall determine that land or other property, right of way, or easement over or through any property is needed by such city or county, as the case may be, to accomplish the purposes of KRS 103.210 to 103.285, inclusive, it may by ordinance or resolution authorize the purchase or condemnation, in the name of such city or county, of said land or other property, or right of way or easement necessary for such purposes, and may proceed to condemn and acquire such property in the manner set forth in the Eminent Domain Act of Kentucky. All property, rights of way and easements already held by its owner or lessee for industrial development shall be exempt from condemnation under this section.

SECTION 102. KRS 152.080 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***of Existing Business and Industry***, as it deems necessary and advisable, is authorized to:

(1) Consult with agencies of the state, federal and local government in order to coordinate development programs and plans and to articulate agriculture, industry, and commerce in the light of the needs of particular localities;

(2) Make studies of land utilization so as to determine areas suitable for industrial and commercial development;

(3) Make studies and projections and publish information relating to the economic development of the Commonwealth and make appropriate recommendations to the ***board of the partnership*** [~~Governor~~] and the General Assembly;

(4) Establish and maintain development offices in out-of-state centers of industrial and commercial management;

(5) Place advertising in appropriate media promoting Kentucky's resources and locational advantages for industrial and commercial enterprises.

Section 103. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky and by the rules of the Senate, the duties of the Lieutenant Governor shall be as follows:

(a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;

(b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;

(c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;

(d) To serve as vice chairman of the County Debt Commission as provided in KRS 66.300;

(e) To appoint three (3) members of the Board of Ethics of the Kentucky General Assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;

(g) [~~To serve as a member of the Kentucky Port and River Development Authority pursuant to KRS 154.320;~~

~~(h)~~] To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030;

(h)[~~(i)~~] To serve as a member of the Appalachian Development Council as provided in KRS 154.600;

(i)[~~(j)~~] To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

1. The Southern Growth Policies Board as prescribed by KRS 147.585;
2. The Breaks Interstate Park Commission as provided in KRS 148.225;
3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 104. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in ***subsection (2) of Section 29 of this Act*** [~~KRS 152.282(2)~~] shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

Section 105. KRS 247.970 is amended to read as follows:

To the extent the provisions of KRS 247.940 to 247.978 delegate to the corporation powers concurrently now held by other governmental agencies, including, but not being limited to, the provisions of KRS 103.200 through 103.285 and KRS 154.010 through 154.170, ***as those statutes read at the time of the enactment of this section,*** the provisions hereof shall be regarded as supplemental and not in derogation of any powers now existing.

Section 106. KRS 141.066 is amended to read as follows:

(1) Individuals whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and ***Section 50 of this Act*** [~~155.440~~].

(2) For a husband and wife living together, whether filing jointly or separately, the "low income" tax credit shall be computed on the basis of their combined adjusted gross income and shall be deductible from their combined tax liability.

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

Section 107. The board of the Kentucky Economic Development Partnership shall develop and prepare for submission to the 1994 Regular Session of the General Assembly a fiscal management and procurement program which shall facilitate the world-class operations of the partnership.

Section 108. (1) As of the effective date of this Act, all existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, real property and personal property assigned to these programs, within the Cabinet for Economic Development including, but not limited to, the following, are hereby transferred to and shall be within the authority and control of the Kentucky Economic Development Partnership:

(a) Office of the Secretary;

(b) Special Projects Branch;

(c) Office of General Counsel;

(d) Comprehensive Advertising Program;

(e) The New York Office;

(f) Communications Services;

(g) Management and Operations;

(h) Kentucky Rural Economic Development Authority;

(i) Office of Industrial Development, including Industrial Marketing Branch;

(j) Office of International Marketing, including Export Promotion Section, Japan Office, and European Office;

(k) Bluegrass State Skills Corporation;

(l) Kentucky Development Finance Authority;

(m) Department for Existing Business and Industry; including the following:

1. Kentucky Port and River Development Commission;

2. Kentucky Waterway Marina Development Commission;

3. Enterprise Zone Programs;

4. Information Clearing House;

5. Kentucky Recycling Brokerage Authority;

6. Small Business Division, including Crafts Branch and Kentucky Procurement Assistance Branch;

7. Minority Business Division;

8. Existing Industries Division; and

9. Research and Planning Division, including Library, Map Sales Section, General Research Branch, Community Brochure Branch, and Site and Building Evaluation Branch;

(n) Office of Business and Technology; and

(o) Office of Administrative Services, including:

1. Information Systems Management;

2. Personnel and Payroll Services; and

3. Fiscal Management Branch.

(2) Any remaining administrative, budgetary, or oversight authority or functions of the Cabinet for Economic Development with respect to the Tobacco Research Board and the Kentucky Geological Survey are transferred to the University of Kentucky.

(3) Notwithstanding any executive order to the contrary, the duties, responsibilities, and functions and the support staff, funds, and equipment of the following entities are transferred to the Kentucky Economic Development Partnership, as of the effective date of this Act:

(a) The Crafts Branch of the Division of Special Arts Projects, previously located in the Department of the Arts;

(b) The Visual Arts Resource Program, previously located in the Division of Special Arts Projects within the Crafts Branch of the Department of the Arts; and

(c) The commissioner's office storesworkers, previously assigned by Executive Order 89-494 to the Commissioner's Office in the Department of the Arts.

Section 109. As of the effective date of this Act, the following programs, functions and funds, their duties and responsibilities, funds, obligations, personnel, records, real property and personal property assigned to these programs are transferred to and shall be in the authority and control of the Kentucky Economic Development Partnership:

(1) The Community Development Block Grant Program of Title I of the Housing and Community Development Act of 1974 as amended and all related programs and activities currently within the Division of Community Programs, Department of Local Government; and

(2) The Division of Marketing Development currently within the Office of Market Services, Department of Agriculture.

Section 110. As of the effective date of this Act, the following programs, responsibilities, functions, real property, funds, personnel, records and obligations shall be transferred to the Kentucky Economic Development Partnership for administration and shall be in the authority and control of the Kentucky Economic Development Partnership:

(1) The Kentucky Infrastructure Authority as created and established in KRS 224A.030 and currently administered by the Finance and Administration Cabinet;

(2) The Commonwealth venture fund as established in KRS 155.430 and currently administered by the Finance and Administration Cabinet; and

(3) The Kentucky Agricultural Finance Corporation as established in KRS 247.944, and currently administered by the Finance and Administration Cabinet.

Section 111. The following KRS sections are repealed:

152.010 Definitions.

152.264 Kentucky Rural Economic Development Authority.

152.268 Administrative staff.

152.270 Immunity from personal liability of officers and directors.

152.272 Acceptance and expenditure of funds.

152.274 Conflict of interest prohibited.

152.284 Revenue bonds.

152.286 Revenue bonds not to be deemed debt of Commonwealth — Payment of expenses of authority.

152.288 Security for bonds — Bonds considered a permitted investment.

152.290 Effect of pledge of revenues or assets of authority.

152.292 Authority's money deemed to be trust funds.

152.294 Enforcement of rights by bond holders or trustees.

152.296 Negotiability of bonds and interest coupons.

152.298 Refunding obligations.

154.010 Definitions.

154.020 Kentucky Development Finance Authority — Members — Compensation — Quorum.

154.022 Cooperation between agencies mandated.

154.025 Administration by authority — Executive director.

154.035 Executive committee — Powers.

154.041 Powers of authority.

154.310 Definitions.

154.320 Kentucky Port and River Development Commission — Members — Terms — Officers — Quorum — Compensation — Removal.

154.321 Districts from which members of commission selected.

154.325 Executive director.

154.345 Citation of law.

154.365 Membership — Quorum — Compensation.

154.370 Districts — Appointments.

154.375 Executive director.

154.380 Power to contract.

154.385 Receipt and disbursement of funds.

154.580 Appropriations and finances transferred to Kentucky Development Finance Authority.

247.421 Agricultural Export Authority.

The Committee Substitute to **HB 89** is as follows:

HB 89, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The mission of the Commonwealth's economic development system shall be to achieve the best quality of life for all Kentuckians through long-term strategic planning and implementation that fosters growth in jobs and incomes and enables communities, businesses, governments, and individuals to compete in the global marketplace.

(2) The goals for the Commonwealth's economic development system shall be as follows:

(a) By the year 1993, Kentucky will have an economic development partnership of government, business, education, communities, and individuals that provides a coordinated planning and implementation process which establishes government priorities for action and accountability, supports rural and urban communities to invest in their own futures, assists businesses to acquire the resources to compete, and prepares individuals for work in high quality jobs; and

(b) By the year 2000, Kentucky will have people and institutions with the capacity to adapt to future change; a skilled, competitive workforce; thriving communities throughout the state; and increased wealth and high quality jobs with greater opportunities to compete for them.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context indicates otherwise:

(1) "Authority" means the Kentucky Economic Development Finance Authority, except as used in KRS 154.655 to 154.705 and in Section 37 of this Act;

(2) "Board" or "Board of the partnership" means the governing body of the Kentucky Economic Development Partnership as created and established in Section 3 of this Act;

(3) "Commonwealth" means the Commonwealth of Kentucky;

(4) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(5) "Local and regional economic development interest" means any local business or economic development interest, including, but not limited to, chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;

(6) "Industrial entity" means any corporation, partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;

(7) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods of processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

(8) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

(9) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;

(10) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;

(11) "Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act;

(12) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(13) "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(14) "Project" means an endeavor approved by the partnership or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(15) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;

(16) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (12) of this section;

(17) "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

(18) "State" means the Commonwealth of Kentucky; and

(19) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky Economic Development Partnership is created and established as a de jure municipal corporation, a public body corporate and politic, a public subdivision of the Commonwealth of Kentucky, and a public agency within the meaning of KRS 61.805 and 61.870, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through economic development.

(b) The partnership shall not be included for administrative purposes within an existing department or program cabinet as prescribed in KRS 12.015. The partnership shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 42.005.

(c) The partnership shall serve as the Commonwealth's lead economic development agency and shall exercise the following functions:

1. Strategic planning;

2. Finance;

3. Business assistance;

4. Marketing and promotion;

5. Community development;

6. Workforce development;

7. Innovation; and

8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The partnership shall be governed by a board of directors consisting of eleven (11) members, two (2) of whom shall be the Governor, or his designee, and the secretary of finance and administration. Pursuant to subsections (3) and (4) of this section, six (6) regional representatives, one (1) from each Congressional district of the Commonwealth, shall be appointed by the Governor. Three (3) at-large representatives shall be selected by the Governor, pursuant to subsection (6) of this section. All regional and at-large appointments shall be subject to confirmation by the House of Representatives and the Senate of the Commonwealth.

(3) By no later than thirty (30) days after the effective date of this Act, the governing bodies of each of the following organizations shall meet and nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth as candidates for the initial appointment to the board of the partnership:

(a) The Kentucky Industrial Development Council;

(b) The Associated Industries of Kentucky;

(c) The Kentucky State AFL-CIO;

(d) The Kentucky Farm Bureau Federation;

(e) The Kentucky Chamber of Commerce; and

(f) The Kentucky Economic Development Corporation.

(4) The Governor shall select the original six (6) regional representatives from the lists provided pursuant to subsection (3) with at least one (1) regional representative being chosen from each organization's list. After the initial appointment of regional representatives, appointments to vacancies shall be made in the same manner as prescribed in subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.

(5) The initial appointments of the six (6) regional representatives to the board of the partnership as prescribed in subsection (3) of this section shall be as follows: members representing the first and fifth Congressional districts shall be appointed for a period of two (2) years; members representing the second and fourth Congressional districts shall be appointed for a period of three (3) years; and members representing the third and sixth Congressional districts shall be appointed for a period of four (4) years. All succeeding appointments shall be four (4) years each.

(6) Three (3) at-large members shall be appointed by the Governor from the private sector from among various businesses and industries in the Commonwealth which are not otherwise represented on the board of the partnership. The initial appointments shall be as follows: one (1) member whose term shall expire two (2) years from the date of appointment; one (1) member whose term shall expire three (3) years from the date of appointment; and, one (1) member whose term shall expire four (4) years from the date of appointment.

(a) One (1) at-large member shall be a private sector person with substantial experience in local and regional economic development efforts in the Commonwealth;

(b) One (1) at-large member shall be a private sector person with substantial knowledge of university research and development capacities and experience in transferring basic research and development into the marketplace.

(c) One (1) at-large member shall be a person with substantial experience in successfully starting, developing and maintaining a business in Kentucky.

(7) In making appointments the Governor shall attempt to assure representation from large and small businesses, minorities and both major political parties in the state.

(8) Vacancies on the board of the partnership which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any regional representative board member or private sector member misses more than two (2) consecutive meetings of the board of the partnership, then that position shall be declared vacant and filled in accordance with this section.

(9) The board of the partnership shall meet quarterly and at other times upon call of the chairman or a majority of the board.

(10) A quorum shall be a majority of the total membership of the board of the partnership.

(11) A majority of those voting shall be required to organize and conduct the business of the partnership, except that an affirmative vote of eight (8) or more members of the board of the partnership shall be required to hire or fire the president of the partnership, and a majority of the entire board shall be required to adopt or amend the strategic plan.

(12) Individual board members shall have no authority to control or direct the operations of the partnership or the actions of its officers and employees, including the president.

(13) Members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Governor, or his designee, shall be the chairman of the board of the partnership.

(2) The Office of the chairman shall be created and established and consist of the chairman of the board of the partnership, and not more than five (5) administrative and clerical employees, none of whom shall have programmatic responsibilities. No employee in the office of the chairman shall have a title such as ''deputy chairman'' or ''vice-chairman''; and none shall exercise authority over the president.

(3) The chairman of the board shall be principal spokesperson for the partnership, and along with the president of the partnership, shall serve as chief negotiator on state government matters related to the recruitment and retention of businesses and industries.

(4) Nothing contained in this section shall be construed as precluding the Governor from appointing the chairman of the board of the partnership to the Governor's executive cabinet as provided in KRS 11.865.

(5) The board of the partnership shall elect from among the private sector members the vice chairman of the board of the partnership who shall serve as chairman upon the absence of the Governor. After an initial term which shall expire December 31, 1994, the term of office of the vice chairman shall be for a period of two (2) years.

(6) The president of the partnership shall serve as secretary of the board of the partnership.

(7) The board may establish an executive committee consisting of the chairman, the vice chairman, the secretary of the board, and not more than three (3) additional board members selected jointly by the chairman and vice chairman. The executive committee shall have such authority as the board delegates to it, except that the board shall not delegate to the executive committee the authority to take actions requiring approval by a majority of the entire board under subsection (11) of Section 3 of this Act.

(8) The president and other officers and employees of the partnership shall not be required to disclose confidential information concerning existing businesses or business prospects with which the partnership is dealing, including the identity of the businesses, to members of the board other than the executive committee. The executive committee shall provide advice and assistance to the president in negotiations with existing

and prospective businesses. In the event the partnership enters into an agreement with a business entity which requires approval by the General Assembly, the agreement shall be presented by the president to the board, which shall make a recommendation of approval or disapproval of the agreement to the General Assembly.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The board of the partnership shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

(1) Serving as the governing body of the lead state agency for economic development;

(2) Suing and being sued;

(3) Adopting, using and altering at will a corporate seal;

(4) Approving economic development programs and projects;

(5) Selecting the president of the partnership and setting his salary;

(6) Approving the state's strategic economic development plan and subsequent implementation plans;

(7) Providing for and directing the state's economic development strategic planning process;

(8) Evaluating the performance and effectiveness of the Commonwealth's economic development systems, including:

(a) The establishment of benchmarks; and

(b) Program review;

(9) Reporting to the Governor, the General Assembly, and the people of the Commonwealth regarding its functions, duties, and responsibilities, including, but not limited to:

(a) The Commonwealth's strategic economic development plan;

(b) Program initiatives and implementation plans;

(c) Systems evaluations;

(d) Benchmarks;

(e) Program evaluation; and

(f) Activities of the partnership;

(10) Soliciting, borrowing, accepting, receiving, investing and expending funds from any public or private source;

(11) Making grants, loans, and investments; guaranteeing and insuring loans, leases, bonds, notes, or other indebtedness, whether public or private; issuing letters of credit; and making loans to financial institutions to facilitate financing of all or part of an export-related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(12) Constructing, acquiring by gift, purchase, installment purchase, or lease, and reconstructing, improving, repairing, or equipping any project or any part of a project; and entering into a lease for the use or sale of a project;

(13) Making loans and participating in the making of loans; undertaking commitments to make loans and mortgages; buying and selling loans and mortgages at public or private sale; rewriting loans and mortgages; discharging loans and mortgages; foreclosing on mortgages and commencing any action to protect or enforce a right conferred upon the partnership or placed within the control, authority, and responsibility of partnership under the provisions of this chapter; bidding for and purchasing property which was the subject of the mortgage at a foreclosure or other sale, and acquiring or taking possession of the property and, in that

event, completing, administering, paying the principal and interest on obligations incurred in connection with the property; and disposing of and otherwise dealing with the property in a manner as may be necessary or desirable to protect the interests of the partnership;

(14) Entering into a lease for the use or sale of a project; acquiring or contracting from any person, public entity, corporation, partnership, or entity, leaseholds, real or personal property or any interest in real or personal property; owning, holding, clearing, improving, and rehabilitating and selling, assigning, exchanging, transfering, conveying, leasing, mortgaging, or otherwise disposing of or encumbering leaseholds, real or personal property, or any interest in real or personal property as is convenient for the accomplishment of the purposes of this chapter;

(15) Procuring insurance against any loss in connection with the partnership's property, assets, or activities;

(16) Charging, imposing and collecting fees and charges in connection with any transaction, and providing for reasonable penalties for delinquent payment of fees or charges;

(17) Indemnifying and procuring insurance indemnifying members and officers of the partnership, members and officers of authorities transferred to the partnership pursuant to Sections 108 to 110 of this Act, and members and officers of the finance committee of the Kentucky Economic Development Finance Authority as provided in Section 18 of this Act from personal loss or accountability from liability asserted by any person on the bonds or notes of the partnership or authority, or any personal liability or accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or by reason of acquisition, construction, ownership, or operation of any project funded in whole or part by the partnership or authority; or by reason of any other action taken or the failure to act by the partnership or authority;

(18) Mortgaging or creating security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of the bonds or notes issued by the partnership;

(19) Conveying or releasing a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under the terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes or as may otherwise be agreed with the holders of the bonds or notes;

(20) Issuing non-appropriation-supported bonds and notes including, but not limited to, commercial paper, refund bonds, and notes; paying the costs of issuance of bonds and notes; paying interest and notes; and issuing any bonds and notes under the provisions of KRS Chapter 224A;

(21) Making and entering into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers;

(22) Employing consultants and other persons and employees as may be required in the judgment of the partnership, essential to its operations, functions, and responsibilities;

(23) Providing technical assistance regarding any economic or job development project, program, or activity;

(24) Delegating any powers, duties, responsibilities, and authority to any division, agency, or authority under its control and administration;

(25) Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative body under its control and jurisdiction;

(26) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as prescribed in this chapter and governing the powers, duties, and responsibilities delegated to any administrative body transferred to the partnership pursuant to Sections 108 to 110 of this Act or otherwise placed within the control and responsibility of the partnership; and

(27) Doing all other things necessary or convenient to achieve the objectives and purposes of the partnership which are not explicitly prohibited by statute.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In the selection and appointment of the first president of the partnership, three (3) members appointed by the Governor shall set the qualifications for the position of the president, employ a national search firm and conduct a nationwide search for candidates, and select from that list a candidate for appointment by the board of the partnership as the first president of the partnership. The selection shall be by unanimous vote of the selection committee.

(2) The appointment of the first president shall require an affirmative vote of eight (8) members of the board of the partnership, and shall be made for a term ending December 31, 1997, at the end of which, the president may be reappointed by the board for subsequent terms of four (4) years each. The president shall serve at the pleasure of the board.

(3) The president of the partnership shall be a person with significant experience and established reputation as an economic development professional.

(4) The first president of the partnership selected in accordance with this section shall be appointed by the board of the partnership no later than December 31, 1992.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) All subsequent appointments of the president of the partnership shall require the affirmative votes of eight (8) members of the board, and shall be for a term of four (4) years, at the expiration of which he may be reappointed for additional terms of four (4) years each. The president of the partnership, however, shall serve at the pleasure of the board, and may be removed upon the affirmative vote of eight (8) members.

(2) The president of the partnership shall be the chief operating officer for the Kentucky Economic Development Partnership and shall possess the professional qualifications appropriate for that office as determined by the board of the partnership.

(3) The board of the partnership shall set the salary of the president.

(4) The president shall be responsible for the day-to-day operations of the partnership and shall report and submit on an annual basis implementation plans to the board of the partnership as provided in Section 8 of this Act; submit the strategic plan for economic development to the board of the partnership in accordance with the provisions of Sections 12 to 13 of this Act; submit program evaluation reports to the board of the partnership in accordance with the provisions of Section 14 of this Act; carry out policy and program directives of the board of the partnership; coordinate programs of the partnership with all other agencies of state government having economic development responsibilities; appoint all personnel of the partnership, except that board approval shall be required for all persons to be appointed to commissioner level positions; and carry out all other duties and responsibilities assigned to him by the board of the partnership.

(5) The president shall prepare and submit the proposed budget of the partnership to the chairman who shall present it to the board for final approval. The chairman may recommend modifications to the board.

(6) The president of the partnership shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The president of the partnership shall present annually to the board of the partnership for its review and approval implementation plans for the approved strategies as set forth in the Commonwealth's approved strategic economic development plan for which funds will be expended by the partnership or other independent agencies receiving funds from the partnership.

(2) Any agency receiving funds from or through the partnership shall submit annually implementation plans to the board of the partnership for its review and approval.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall have authority to initiate such new programs as it deems appropriate, including, but not limited to:

(a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment. If this program is created, the board of the partnership may contract for its administration with the Commonwealth venture fund;

(b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the board of the partnership may contract for its administration with the Kentucky Science and Technology Council, Inc.;

(c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;

(d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;

(e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;

(f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;

(g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the division in developing responses to suit specific needs of Kentucky businesses and industries;

(h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;

(i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;

(j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.

1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.

2. Communities having deficiencies should meet the stated criteria through assistance from readily available regional and local facilities and institutions; and

(k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall have the authority to contract for the provision of any economic development function or service with private firms or public institutions provided that such contracts meet the following conditions:

(a) They are based on competitive requests for proposals;

(b) They incorporate strict performance standards and accountability criteria;

(c) They require periodic audit;

(d) They are subject to regular rebidding; and

(e) Where appropriate, they leverage other private and public funds.

(2) Wherever feasible, the partnership shall contract for the provision of functions and services rather than establishing new governmental structures.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership shall establish a statewide network of information transfer and assistance linkages with appropriate local economic development agencies and entities providing economic development services and financing.

(2) The purpose of the network shall be to facilitate strategic planning and coordinate service delivery by providing ready access by communities and businesses to all aspects of partnership operations and to all providers of economic development assistance, and by providing the partnership with ready access to the most complete and up-to-date information concerning communities, businesses, and economic development service providers.

(3) The network shall employ, to the greatest extent feasible, compatible hardware and software and common databases and library and information services networks in order to ensure a free flow of information and assistance among the components of the network.

(4) In those communities and regions which do not have appropriate existing economic development organizations or agencies, the partnership shall serve as a catalyst to bring together the elements of private businesses, education, government, and community leaders necessary to form a local or regional economic development operation. Upon the establishment of an appropriate organization, it shall become an element of the statewide economic development network.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The framework for the strategic plan shall include the following elements:

(a) Mission Statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(2) The goals as specified in Section 1 of this Act should not be considered static, but dynamic, and therefore shall be reviewed for relevancy at least every four (4) years.

(3) Plan horizon and frequency of updates shall be as follows:

(a) The planning horizon for the Commonwealth's strategic economic development plan shall be for a period of not less than five (5) nor more than ten (10) years.

(b) The board of directors of the Kentucky Economic Development Partnership shall prepare and adopt a strategic economic development plan for Kentucky within one (1) year from the effective date of this Act and shall update the plan every two (2) years thereafter.

(4) The strategic economic development planning process shall include the broadest participation of all public and private interests including, but not limited to, state agencies, local, regional and statewide associations with interest in economic development, and members of the various industrial sectors.

(5) In the preparation and finalization of recommendations contained in the Commonwealth's strategic economic development plan, the board of the partnership shall conduct at least one (1) public hearing with due legal notice given in accordance with KRS Chapter 424.

(6) In the preparation of the Commonwealth's strategic economic development plan, the board of the partnership may employ consultants and other experts deemed necessary and appropriate for the purposes of this chapter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The strategic economic development plan shall include, but not be limited to: a review, reconfirmation, modification of stated goals; an analysis of the current world economy and its impact on the economy of Kentucky and the nature of the competitive environment within which Kentucky's workforce and businesses must compete; an analyses of broad trends of economic change; the identification of the position of Kentucky's workforce, businesses, and communities relative to the external economic environment; an statewide and regional assessment of Kentucky's economic strengths and weaknesses; identification of strategies, objectives, and actions to be taken to improve Kentucky's competitive position with focus given to human resources development, infrastructure, capital, technology, entrepreneurship, modernization, quality of life, and institutional development.

(2) Under each strategy there shall be included a discussion of the objectives to be established within a set time frame, including:

(a) Programs to be established and administered;

(b) Funding required; and

(c) Public policies to be pursued.

(3) In the development of the initial strategic economic development plan, the partnership shall be guided by, but not limited to, the following principles:

(a) Economic development shall be a partnership of government, private business, local communities, and education;

(b) Growth of jobs and incomes shall come from new business creation in Kentucky, existing Kentucky businesses, and attraction of new business to Kentucky;

(c) Strategies for economic development shall focus on:

1. Systems, not programs;

2. Regions and sectors, not individual businesses;

3. Decentralization;

4. Participation by users;

5. Helping communities to help themselves;

6. Activities that will make Kentucky products globally competitive;

7. Education and assistance, as well as financing;

8. Financing as an investment;

9. Retaining and growing Kentucky businesses;

10. Creating high value job opportunities to all who have prepared themselves; and

11. Encouragement of private sector investment; and

(d) Partnership strategies shall remain flexible to keep Kentucky competitive in a rapidly changing environment.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board of the partnership shall establish objective benchmarks to measure the performance of Kentucky's economy and progress toward achievement of the mission statement, goals and guiding principles. Criteria for the benchmarks shall be:

(a) Use of the statistical information commonly provided by governmental agencies, or specific data gathered by authorization of the board of the partnership;

(b) Comparison of regions and areas within the Commonwealth;

(c) Comparisons of Kentucky to other states, the nation, and international areas; and

(d) Inclusion of measures of income, earnings, and employment.

(2) Examples of appropriate benchmarks may include, but are not limited to:

(a) Kentucky's gross state product as compared with the midwestern and southeastern states and the United States gross national product;

(b) Personal income data used to compare Kentucky to national income and an average of benchmark states;

(c) Wage and salary growth compared by counties, regions, and states; and

(d) Earnings-weighted job indices to compare metropolitan areas, rural areas, and other subdivisions of the Commonwealth.

(3) The University of Kentucky, Center for Business and Economic Research, and the University of Louisville, Bureau of Economic Research, annually shall prepare jointly and submit to the Governor, the General Assembly, and the partnership a report detailing and grading Kentucky's progress with regard to each benchmark. The board of the partnership shall publish the report and make available to the public at no cost.

(4) The board of the partnership shall evaluate the effectiveness of established implementation activities.

(5) The partnership shall conduct periodic evaluations of projects funded or otherwise assisted by the partnership to determine the return on partnership investments and to ensure compliance with commitments made as conditions of partnership investment. Results of the evaluations shall be reported to the board of the partnership, the General Assembly, and the public.

(6) The board of the partnership may retain outside independent agencies to evaluate the effectiveness of economic development programs and systems and to certify the results of reports prepared pursuant to subsection (3) of this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The partnership may establish one or more regional offices and provide staff as necessary to perform functions as prescribed by the board of the partnership.

(2) The partnership may establish regional advisory boards consisting of the same components as the partnership, namely, government, private business, communities, and higher education; and prescribe their functions and responsibilities.

(3) The partnership may contract with existing economic development agencies as necessary to perform functions as prescribed by the board of the partnership.

SECTION 16. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board of the partnership shall develop and prepare for submission to the 1994 Regular Session of the General Assembly, a personnel system and job classification for all employees for the partnership.

(2) Except as prescribed in subsection (3) of this section, until a new personnel system is established and authorized by the General Assembly, employees of the partnership shall be governed by the existing state personnel rules and regulations.

(3) The president of the partnership and the heads of major functional areas as approved by the board of the partnership shall be exempt from the salary limitation as set forth in KRS 64.640.

(4) The president and employees of the partnership shall be subject to the provisions of KRS 18A.140 in the same manner as they apply to employees of the classified service.

SECTION 17. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The president of the partnership and the directors of other state agencies and entities receiving state funds for programs and activities which may affect state economic development shall cooperate in

the coordination of those programs and activities to achieve the successful implementation of the state's strategic economic development plan.

(2) The board of the partnership shall compile a list of state agencies and the extent to which they have direct programmatic involvement in Kentucky's economic development systems. This information shall be presented to the General Assembly before each regular session for the purpose of considering programmatic and budget adjustments.

SECTION 18. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established within the Kentucky Economic Development Partnership the Kentucky Economic Development Finance Authority which shall have all powers, duties, and responsibilities delegated to it by the partnership or as otherwise provided by law, including, all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority, and the economic development portion of the Commonwealth's Federal Community Development Block Grant Program, which have been transferred to partnership pursuant to Sections 108 to 109 of this Act, and the economic development bond program prescribed in Section 30 of this Act.

(2) Any interest, right, or cause of action held in whole or in part by any person, corporation, partnership, government agency, or entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board of the partnership, shall not be impaired or otherwise diminished.

(3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the partnership.

(4) The authority shall be governed by a committee of five (5) persons appointed by the board of the partnership. Any person appointed to the committee shall have experience and expertise in finance.

(5) Two (2) members initially appointed to the committee by the board shall have a term of one (1) year each, and three (3) members initially appointed to the committee by the board shall have a term of two (2) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of two (2) years.

(6) Any person appointed to the committee shall be eligible for reappointment.

(7) The members of the committee shall elect biennially from their membership the following officers: chairman, vice chairman, and secretary-treasurer.

(8) The committee shall prepare bylaws and procedures applicable to the operations of the committee and the authority and submit them to the board of the partnership to be promulgated as administrative regulations in accordance with KRS Chapter 13A.

(9) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars ($100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

(10) A majority of the entire membership of the committee shall be required to conduct any business of the authority.

SECTION 19. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The president shall be authorized to commit the partnership to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the chairman of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by the committee pursuant to administrative regulations promulgated by the board of the partnership in accordance with KRS Chapter 13A.

(3) Lending decisions made by the committee shall be based, if possible, feasible, and not otherwise preclude by federal or state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for Human Resources in facilitation of KRS 194.245(1).

Section 20. KRS 154.005 is amended to read as follows:

It shall be the purpose of ***the Kentucky Economic Development Finance Authority*** [~~this chapter to create a body corporate and politic to be known as the "Kentucky Development Finance Authority" which shall exist and operate to help diversify the economy of this state,~~] to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 21. KRS 154.043 is amended to read as follows:

(1) The authority may***, upon approval of the board of the partnership,*** borrow money and issue bonds or notes ***in accordance with Section 31 of this Act and other provisions of this chapter appertaining***, subject to KRS 42.420, for the following purposes:

(a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for the cost of a project or any part thereof; to make loans pursuant to subsection ***(11) of Section 5 of this Act*** [~~(18) of KRS 154.041~~] for an export related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

(b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section; or

(c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its ***governing committee*** [~~chairman or other officer~~] to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds; or

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following convenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter.

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the Circuit Court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way effect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the ***governing committee of the*** authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

Section 22. KRS 154.180 is amended to read as follows:

(1) On or before October 1, ***1992*** [~~1988~~], and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, which is in progress,~~] along with an updated cost [~~of a project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky ***Economic*** Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction or alteration, financed or facilitated in whole or in part by the authority [~~granted by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] shall be reported to the Kentucky Department of Employment Services, Cabinet for Human Resources, and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This ***construction activity*** report [~~shall be entitled "K.D.F.A. Construction Activity Report" and~~] shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

[~~(4) If the authority fails to deliver the written project status report, K.D.F.A. Construction Activity Report, or the overview report to the appropriate agency as specified in this section, within fifteen (15) days after the required due date, the salary of the executive director of the Kentucky Development Finance Authority shall be withheld until such report is received.~~]

SECTION 23. KRS 152.260 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The following words and terms ***as used in Sections 23 to 29 of this Act***, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(2) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, and installation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, and installation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, and installation of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(3) "Assessment" means the job development assessment fee authorized by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(4) "Authority" means the Kentucky [~~Rural~~] Economic Development ***Finance*** Authority ***as created in Section 18 of this Act*** [~~created by KRS 152.262 to 152.298~~].

(5) "Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(6) "Commonwealth" means the Commonwealth of Kentucky.

(7) "Economic development project" means and includes the acquisition of any real estate in a qualified county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface

site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition and installation of manufacturing facilities on the real estate, for lease by the authority to an approved company for use and occupancy by the approved company or its affiliates for manufacturing purposes.

(8) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity engaged in manufacturing which meets the standards promulgated by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(9) "Financing agreement" means any agreement entered into, pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], on behalf of the authority or other lenders or both and an approved company with respect to an economic development project.

(10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution, and related office facilities in respect thereof; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of minerals.

(11) "Qualified county" means any county certified as such by the authority pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

(12) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

(13) "Revenues" shall not be considered state funds.

SECTION 24. KRS 152.262 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth, and particularly those residing in qualified counties, depends in large measure upon the development and growth of industry in the Commonwealth.

(2) The General Assembly hereby finds and declares further that it is in the best interest of the Commonwealth to induce the location of manufacturing facilities within the qualified counties of the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs within the qualified counties that but for the inducements to be offered by the authority to approved companies as herein provided would not exist and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth and qualified counties.

(3) The General Assembly hereby finds and declares further that the authority granted by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] and the purposes to be accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of manufacturing facilities within qualified counties is of paramount importance, mandating that the provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] be liberally construed and applied in order to advance the public purposes.

SECTION 25. KRS 152.266 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The ***Kentucky Economic Development Finance*** Authority shall have ***in addition to the powers provided in this chapter*** all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], including, but without limiting the generality of the foregoing, the power ***to***:

(1) [~~To~~] Provide and finance economic development projects pursuant to the provisions of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~], and cooperate with qualified counties and eligible companies in order to promote, foster and support economic development within the qualified counties;

(2) [~~To~~] Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees, for the purpose of gathering information with respect to qualified counties, eligible companies, and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~]; ***and***

(3) [~~To~~] Negotiate the terms of and enter into financing agreements with approved companies, and in connection therewith to acquire, convey, sell, mortgage, finance, or otherwise dispose of any property, real or personal, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor;

[~~(4) To appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in KRS 152.262 to 152.298 and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;~~

~~(5) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the authority is a party;~~

~~(6) To include in any borrowing the amounts deemed necessary by the authority to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees, and other expenses necessary or incident to the borrowing;~~

~~(7) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate its purposes, and necessary to administer the procedures and program as provided for in KRS 152.262 to 152.298;~~

~~(8) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of KRS 152.262 to 152.298, including any financing agreements with state agencies or any political subdivisions of the Commonwealth under which funds may be pledged by or to the authority for the payment of its bonds;~~

~~(9) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;~~

~~(10) To sue and be sued in its own name, plead and be impleaded;~~

~~(11) To maintain an office in the city of Frankfort and at any other place or places as it may determine;~~

~~(12) To adopt an official seal and alter the same at pleasure;~~

~~(13) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;~~

~~(14) To employ fiscal consultants, attorneys, appraisers, investment advisors, trustees and other consultants, agents and employees required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;~~

~~(15) To invest any funds held by the authority or its agents or trustees, including, but not limited to, the proceeds of bonds issued under KRS 152.262 to 152.298, reserve or other funds, or any moneys not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by KRS 386.020; and~~

~~(16) To exercise any or all of the general corporate powers of a nonprofit corporation organized under the laws of the Commonwealth and not inconsistent with the provisions of KRS 152.262 to 152.298.~~]

SECTION 26. KRS 152.276 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Each year the authority shall ***under its rural economic development assistance program***, on the basis of the final unemployment figures calculated by the Department of Employment Services within the Cabinet for Human Resources, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in four (4) of the most recent five (5) consecutive years and shall certify those counties as qualified counties. [~~Any county with a population of nine thousand (9,000) or less, according to the annual population figure calculated by the U.S. Bureau of the Census, may also be certified as a qualified county by the authority, regardless of the county's annual unemployment.~~] If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate above the state average, then the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives

offered by ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] unless the financing agreements required herein are entered into by all parties within one (1) year after the date of the decertification.

(2) The authority shall ***establish the procedures and*** [~~promulgate~~] standards for the determination and approval of eligible companies and their economic development projects ***by the promulgation of administrative regulations in accordance with KRS Chapter 13A***. These standards shall give greatest weight to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project. No economic development project which will replace manufacturing facilities existing in the state shall be approved by the authority. With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. After a diligent review of relevant materials and completion of its inquiries, the authority may by resolution of its ***governing committee*** [~~board of directors~~] designate an eligible company to be an approved company and authorize the undertaking of its economic development project in the qualified county.

SECTION 27. KRS 152.278 IS REPEALED AND REENACTED AS NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the authority, and the approved company, except that each financing agreement shall include the following provisions:

(1) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(2) The financing agreement shall specify that the annual obligations of the approved company pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(3) (a) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

1. A one hundred percent (100%) credit against the Kentucky state income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid under the respective financing agreement; plus

2. The aggregate assessment withheld by the approved company in each year.

(b) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(4) (a) The financing agreement shall provide that the assessments, when added to the credit for the Kentucky state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year, however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

(b) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(5) The financing agreement shall provide that:

(a) It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

(b) Upon the default by the approved company in the obligation to render its annual payment, the authority shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and sell the economic development project at public or private sale, or to pursue any other remedies available under the Kentucky Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

SECTION 28. KRS 152.280 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The approved company shall be entitled to a credit against the Kentucky corporate income tax liability mandated by KRS Chapter 141, on such income as may result from the operation of the approved project; the credit shall be equal to the total amount of the liability, not to exceed the total debt service paid under the respective financing agreement.

(2) Thirty (30) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the state income tax liability for the preceding year of each approved company with respect to an economic development project financed through the issuance of bonds and the amounts of any tax credits taken pursuant to ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~].

SECTION 29. KRS 152.282 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 TO READ AS FOLLOWS:

(1) The approved company may require that each employee, as a condition of employment, agrees to pay a job development assessment fee, not to exceed six percent (6%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project.

(2) Each employee so assessed shall be entitled to credits against Kentucky income and local occupational taxes as follows:

(a) Two-thirds (2/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit of Kentucky income tax withheld as provided by KRS 141.350;

(b) One-third (1/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the taxable year in the jurisdiction in which the economic development project is located.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall lapse on the date the bonds are retired.

SECTION 30. KRS 152.052 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the ***Kentucky Economic Development Finance Authority*** [~~secretary of the Cabinet for Economic Development~~]. The ***board of the partnership shall promulgate*** [~~secretary of the Cabinet for Economic Development shall adopt~~] administrative regulations ***in accordance with KRS Chapter 13A*** for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; and

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond ***Oversight*** Committee, the ***authority*** [~~secretary of the Cabinet for Economic Development~~] shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the ***president of the partnership*** [~~secretary~~] to the ***Capital Projects and Bond Oversight*** Committee. Subsequently, the ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) The Kentucky General Assembly hereby finds that encouraging development of new markets for recycled products in order to extend landfill capacity in the Commonwealth is an important economic development strategy. ***The partnership*** [~~Beginning with February 26, 1991, the Cabinet for Economic Development~~] shall set as a target a minimum of twenty percent (20%) of the funds available to the bond program for funding projects which create or expand markets for materials recovered or diverted from the solid waste stream notwithstanding the direct number of jobs to be created or retained by such projects.

(5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. Airport construction and renovation projects shall be eligible for funding under this section. The ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the ***board of the partnership*** [~~secretary of the Finance and Administration Cabinet~~], and the State Property and Buildings Commission, under the provisions of KRS ***56.450*** [~~56.440 and 56.720~~].

(6) Following the approval by the ***board of the partnership*** [~~secretary of the Finance and Administration Cabinet~~] and the State Property and Buildings Commission, the project shall be presented by the ***president of the partnership*** [~~Cabinet for Economic Development~~] with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(8) The ***partnership*** [~~Cabinet for Economic Development~~] shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

(9) The ***president of the partnership*** [~~secretary of the Cabinet for Economic Development~~] shall provide semiannual reports to the Interim Joint Committee on Agriculture and Natural Resources on the programs carried out by the cabinet to promote market development for recycled products. In the semiannual reports, the secretary shall cite specific recycling-related projects and investments made under the economic development bond program and other programs within the cabinet's jurisdiction.

SECTION 31. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of the Kentucky Revised Statutes, the Kentucky Economic Development Partnership is authorized to exercise the following power:

(a) The partnership may provide for the issuance of its Kentucky economic development partnership revenue bonds, for the purpose of providing funds and moneys to the partnership to enable it to exercise and fulfill the powers and authority set forth in Section 5 of this Act, to enter into agreements with governmental agencies and private companies, corporations, partnerships, and other such entities, acquire and lease projects

to governmental agencies and private companies, corporations, partnerships, and other such entities, purchase obligations of governmental agencies issued for economic development projects, and make loans or grants for economic development projects, and to enable the partnership generally to carry out and effectuate its proper corporate purposes under this chapter. In anticipation of the issuance of the revenue bonds, the partnership may provide for the issuance at one (1) time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of the state. The principal of and the interest on the revenue bonds or notes shall be payable solely from partnership revenues. Any such notes may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the partnership deem it financially practicable to pay the notes directly from partnership revenues, the notes may be paid from any available partnership revenues. Prior to the issuance of the bonds or notes, the partnership shall submit any proposed issue to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with provisions of KRS 45.810.

(b) The revenue bonds or notes of the partnership shall be dated and may be redeemable prior to maturity at the option of the partnership at prices and under terms and conditions determined by the partnership. Any bonds or notes shall bear interest at the rate or rates, shall be payable annually or at shorter intervals, and may bear conversion privileges determined by the partnership. Notes shall mature at the time or times not exceeding five (5) years from their date or dates, and revenue bonds shall mature at the time or times not exceeding forty (40) years from their date or dates as may be determined by the partnership. The partnership shall determine the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer of the partnership whose signature or facsimile of whose signature shall appear on any revenue bonds or notes shall cease to be such officer before the delivery thereof, the signature of the facsimile shall be valid and sufficient for all purposes, the same as if the officer had remained in office until the delivery. At the time of issuance of variable rate revenue bonds, the partnership may designate individuals or institutions which, in the sole judgment of the partnership, have financial market expertise to serve as agent for the partnership for establishing and changing from time to time, while the variable rate revenue bonds remain outstanding, the rate of interest to be borne by and the price to be paid for the revenue bonds. The rate-setting procedures and authority of each agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the partnership at the time of issuance of the revenue bonds. At the time of the issuance of the revenue bonds, the partnership shall establish the maximum interest rate to be borne by the revenue bonds. The partnership shall retain the right to remove or replace any agent at any time and for any reason. The partnership may provide that said bonds or notes may be executed only with the facsimile signatures of its officers, but said bonds or notes shall be executed with the manual signature of a bank or trust company designated by the partnership as registrar and paying agent.

(c) All revenue bonds or notes issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of the state. The partnership may sell the revenue bonds or notes in the manner, either at public or private negotiated sale, and for the price, as it may determine will best effect the purpose of this chapter. If revenue bonds are sold at public, competitive sale, the revenue bonds shall be sold after newspaper advertising conforming to the requirements of KRS Chapter 424 and competitive bids for the sale of the revenue bonds shall be opened and read publicly by the partnership at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(d) In its proceedings authorizing the issuance of revenue bonds or notes, the partnership shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of partnership revenues, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the partnership may be authorized and issued from time to time. The proceedings, determinations, and enactments of the partnership shall specify that the payment of principal of and interest on all partnership revenue bonds and notes shall constitute a first charge and lien against all partnership revenues before any partnership revenues are used, applied, and disbursed for any other valid purposes of the partnership, including the payment of operation and maintenance costs incident to the operation of the partnership.

(e) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the partnership to enter into agreements or interim financing agreements with governmental agencies and private companies, corporations, partnerships, and other entities, to acquire and lease projects to governmental agencies, private companies, corporations, partnerships and other entities, to purchase obligations of governmental agencies issued for economic development projects, to make loans or grants to governmental agencies, private companies, corporations, partnerships, and other such entities for economic development projects, or for any purpose authorized in this chapter. Revenue bond or note proceeds may also be used and applied for the payment of ordinary and necessary expenses in connection with issuance of the revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale thereof,

if discount bids are authorized and permitted by the partnership, administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.

(f) Prior to the preparation of definitive revenue bonds or notes, the partnership may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive revenue bonds or notes when the revenue bonds or notes shall have been executed, and are available for delivery. The partnership shall also provide for the replacement of any revenue bonds or notes that shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the partnership without obtaining the consent or acquiescence of any cabinet, division, commission, board, department, or agency of the state other than the Finance and Administration Cabinet, and as provided in KRS 42.420, and without any other proceedings or the happening of any other conditions or things except as specifically required by this chapter and the provisions of the resolution or resolutions of the partnership authorizing the issuance of the revenue bonds or notes.

(2) The partnership shall assume all bond issuance and refunding authority, power, duties, and obligations as existed on the effective date of this Act for the Kentucky Development Finance Authority, the Kentucky Rural Economic Development Authority, the Kentucky Infrastructure Authority under KRS Chapter 224A, the Kentucky Agricultural Finance Corporation under KRS Chapter 247; the ability of any of the foregoing organizations to issue industrial revenue bonds under KRS Chapter 103; and the ability of any of the foregoing authorities to issue economic development revenue bonds as provided in this chapter. The partnership shall also have the authority and power to issue revenue bonds for any other economic development activity as set forth in this chapter.

(3) The partnership shall for purposes of the Kentucky Revised Statues be deemed to be the successor issuer for all of the currently issued and outstanding bond issues by the organizations set forth in subsection (2) of this section. The partnership shall have the authority and the power to reaffirm all existing bond obligations of the organizations in subsection (2) of this section and shall perform all duties, obligations, and requirements as may be necessary and required under the bond documents relating to each and every such issue. The partnership shall also, in regard to each and every such issue, exercise its authority and power as set forth in this chapter.

(4) In the discretion of the partnership, any revenue bonds or notes issued under the provisions of this chapter may be secured by a trust indenture by and between the partnership and corporate trustee which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. A trust indenture, or the resolution of the partnership providing for the issuance of revenue bonds or notes, may pledge or assign for the security of the revenue bonds or notes, all or any part of the totality of partnership revenues received and to be received. The trust indenture or resolution of the partnership may contain provisions for protecting and enforcing the rights and remedies of the bondholders which may be reasonable and proper, and not in violation of law, including, but not limited to, covenants and provisions setting forth the duties of the partnership in relation to the purposes to which revenue bonds and note proceeds may be applied; the disposition or pledging of assets and partnership revenues; and the custody, safeguarding, and application of all partnership revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of revenue bonds, notes, or partnership revenues, to furnish such indemnifying bonds, or to pledge such securities as may be required by a trust indenture or resolution of the partnership. Any trust indenture or partnership resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders, where a trust indenture has been entered into. In addition to the foregoing, any trust indenture or partnership resolution may contain other provisions which the partnership determines to be reasonable and proper for the further security of the holders of any revenue bonds or notes. All expenses incurred in carrying out the provisions of a trust indenture or bond proceedings may be treated as a part of the cost of operating the partnership, and may be paid from partnership revenues pledged or assigned to the payment of the principal of and the interest on revenue bonds or notes, or from any other funds properly available to the partnership. However, the payment of operational costs shall, as provided in subsection (1) of this section, be subordinate to the payment of principal of and interest on partnership revenue bonds or notes from partnership revenues, it being intended that these principal and interest requirements shall be secured by a prior and paramount lien on gross partnership revenues.

(5) Notwithstanding any other provision to the contrary, any trust indenture or partnership resolution shall provide that, except to the extent the rights afforded to bondholders by this section shall be enforceable and enforced by a trustee under a trust indenture rather than by the bondholders, any holder of revenue bonds or notes issued by the partnership or any of the coupons appurtenant thereto, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights generally arising under the laws of the Commonwealth, or granted under this chapter, or under a trust indenture,

or by the resolution of the partnership authorizing the issuance of revenue bonds or notes, and may specifically enforce and compel by mandamus the performance of all duties required by this chapter, or by trust indenture, or partnership resolution, to be performed by the partnership or by any officer or employee thereof, including, but not limited to, the prompt and full enforcement of the terms and conditions of all assistance agreements, to which the partnership is a party.

(6) The partnership is hereby authorized to provide for the issuance of refunding revenue bonds or notes for the purpose of refunding any revenue bonds or notes then outstanding, whether issued by the partnership under the provisions of this chapter or one (1) of the agencies, authorities or organizations referenced in subsections (2) and (3) of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these revenue bonds or notes, and, if determined advisable by the partnership, for the additional purpose of providing further funds for the carrying out of the proper public and governmental purposes of the partnership. The issuance and sale of the refunding revenue bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the partnership in respect of the same, shall be governed by the provisions of this chapter which relate to the issuance of revenue bonds or notes, insofar as these provisions may be applicable.

(7) Refunding revenue bonds or notes may be sold or exchanged directly for outstanding revenue bonds or notes of the partnership, and if sold, the proceeds thereof shall be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of these outstanding revenue bonds or notes. Pending the application of the proceeds of any refunding revenue bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium on the revenue bonds or notes being refunded (and if so provided or permitted in the partnership resolution authorizing the issuance of the refunding revenue bonds or notes, or in the trust indenture securing the same, to the payment of any interest on the refunding revenue bonds or notes and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America which shall mature or which shall be subject to redemption by the holders thereof at the option of such holders not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

(8) Revenue bonds and notes issued by the partnership under the provisions of this chapter are hereby declared and deemed to be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations of the partnership are hereby declared and determined to be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth, for the purpose for which the deposit of bonds, notes, or obligations of the Commonwealth is now, or may hereafter be, authorized by law.

(9) Revenue bonds or notes issued by the partnership under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof; but the bonds shall be payable as to principal and interest solely from partnership revenues provided therefor under the provisions of this chapter. All such revenue bonds or notes shall contain on the face thereof a statement to the effect that neither the Commonwealth nor the partnership shall be obligated to pay the same, or the interest thereon, except from partnership revenues, as defined in this chapter; and that neither the faith and credit, nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of and interest on such revenue bonds or notes.

(10) The Commonwealth, for the specific use and benefit of the partnership, may cause to be submitted to the voters of the state in a manner provided by Sections 49 and 50 of the Constitution of Kentucky, from time to time, propositions for the incurring of state indebtedness represented by general obligation bonds of the Commonwealth, the proceeds of which are to be made available to the partnership and used and employed by the partnership for all proper partnership purposes.

(11) Subject to the provisions of KRS 56.870 to 56.873, the State Property and Buildings Commission or the Kentucky Turnpike Authority may issue bonds for which debt service originates with an appropriation of the General Assembly, and may make the proceeds available to the partnership for all proper partnership purposes.

(12) Funds appropriated to the partnership by the General Assembly, including but not limited to repayments of revolving funds established with appropriations of the General Assembly or established with bond issues for which the debt service, issuance costs, reserve fund requirements, insurance premiums or

any other expenditures associated with bond issuance are appropriated by the General Assembly, shall not be commingled with other partnership funds and shall only be expended for the purposes specified by the General Assembly when the appropriation is made or as approved in subsequent actions of the General Assembly.

SECTION 32. KRS 152.020 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created an agency of the state government to be known as the Department for Existing Business and Industry, which shall ***on the effective date of this Act be transferred to the Kentucky Economic Development Partnership pursuant to Section 108 of this Act*** [~~constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employees as are provided by law~~].

(2) The department ***and its divisions may be reorganized by the board of the partnership, as it deems necessary, in accordance with the provisions of KRS 12.028.*** [~~, subject to the provisions of KRS 12.010 to 12.130, shall be organized into a Division of Research and Planning, a Division of Minority Business, a Division of Small Business Assistance, a Division for Existing Industries, a Business Information Clearinghouse, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.~~

~~(3) The executive officer of the department shall be the commissioner of the Department for Existing Business and Industry. The commissioner shall be appointed by the Governor and shall serve at the pleasure of the Governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the Cabinet for Economic Development and the secretary of the Finance and Administration Cabinet, when such contracts are deemed necessary to implement and carry out the program of the department.~~

~~(4) The Division of Research and Planning, the Division of Minority Business, the Division of Small Business Assistance, and the Division for Existing Industries shall each be headed by directors appointed pursuant to KRS 12.050.~~

~~(5) The Office of Administrative Services shall be headed by an executive director appointed by the secretary, with the approval of the Governor, pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the Office of the Secretary of the Cabinet for Economic Development.~~

~~(6) The Business Information Clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.~~]

SECTION 33. KRS 152.025 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created in the ***partnership*** [~~Cabinet for Economic Development~~] an Office of Business and Technology. The office shall:

(a) Be headed by an executive director who shall be appointed by the ***president of the partnership pursuant to Section 7 of this Act*** [~~secretary of the Cabinet for Economic Development pursuant to KRS 12.050~~];

(b) [~~Be attached to the office of the secretary of the Cabinet for Economic Development and shall~~] Report directly to the ***president of the partnership*** [~~secretary~~];

(c) Be responsible for coordinating and monitoring the various activities being carried out in the Commonwealth by state agencies that relate to adapting advanced technologies to the work place; and

(d) Review and analyze the possibility of establishing research and technology centers in the Commonwealth.

(2) There is created in the ***partnership*** [~~Cabinet for Economic Development~~] an Office of Industrial Development. The office shall be headed by an executive director who shall be appointed by the ***president of the partnership pursuant to Section 7 of this Act*** [~~secretary of the Cabinet for Economic Development pursuant to KRS 12.050~~].

(3) The cost of administrative facilities and services for the Office of Business and Technology and the Office of Industrial Development shall be paid by the ***partnership*** [~~Cabinet for Economic Development~~].

SECTION 34. KRS 152.060 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The Department ***for Existing Business and Industry*** shall assemble and keep in the offices of the department such information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities, and such other information as may be useful in executing the provisions of ***Sections 32 to 36 of this Act*** [~~KRS 152.010 to 152.080~~]. Such information shall be made available to any enterprise which, in the discretion of the ***president of the partnership*** [~~commissioner~~], is legitimate and which contemplates location or operation within the Commonwealth. Such information shall, in the discretion of the ***president of the partnership*** [~~commissioner~~], be made available to any governmental or private agency interested in securing the location or operation of any such legitimate enterprise within the Commonwealth.

(2) The department shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials, and such other information as may be useful in securing the location of such enterprise in the Commonwealth.

(3) The department shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The department shall carry out programs relating to industrial and commercial development, research and planning, community and industrial services, marketing development, small and minority business enterprise, international trade and reverse investment, and other programs designated by the ***board of the partnership*** [~~Governor~~].

SECTION 35. KRS 152.070 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***for Existing Business and Industry*** shall prepare and publish, or cause to be prepared and published, maps, economic and industrial resources surveys of the state and of individual communities and areas, directories of manufacturers, exporters, and industrial services, surveys as related to natural resources and industrial and commercial needs, studies of agri-business opportunities, surveys of forestry industries potential, studies of industrial site characteristics, and other matters relating to the economic development of the Commonwealth as it shall deem necessary and advisable.

SECTION 36. KRS 152.075 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department for Existing Business and Industry shall be responsible for energy resource information. The ***partnership*** [~~Cabinet for Economic Development~~] may enter into a contractual agreement between the department and the Kentucky Geological Survey and such other organizations deemed necessary in order to perform this function.

SECTION 37. KRS 152.045 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The Kentucky Recycling Brokerage Authority, referred to in this section as the "authority," is created by this section to further local governments' efforts to develop reliable markets for their recyclables. The authority shall be composed of seventeen (17) members as follows:

(a) The ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], who shall serve as chairman;

(b) The secretaries of the Finance and Administration and Natural Resources and Environmental Protection Cabinets, and the commissioner of the Department of Local Government; and

(c) Thirteen (13) members appointed by the Governor including representatives of municipal and county governments; legislators; citizens representing environmental interests; and industry representatives.

(2) These seventeen (17) persons and their successors in office shall constitute the Kentucky Recycling Brokerage Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by this section, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(3) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and function as members.

(4) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~] shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's action and proceedings, which shall be public records open to inspection.

(5) On or before July 1, 1991, the Governor shall appoint thirteen (13) members of the authority as follows: five (5) shall serve terms ending July 1, 1995; four (4) shall serve terms ending July 1, 1994; and four (4) shall serve terms ending July 1, 1993. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed.

(6) The authority, with staff assistance from the ***partnership*** [~~Economic Development Cabinet~~], shall act as a state broker for local governments seeking to sell recyclable materials. The authority shall:

(a) Identify local, state, and interstate markets for recyclables;

(b) Issue requests for proposals as well as directly contact potential buyers;

(c) Negotiate contracts with potential buyers on behalf of participating local governments or local groups;

(d) Arrange details of contracts including price collection schedules, reimbursements, and quality assurance provisions;

(e) Conduct workshops and seminars throughout the state to train recycling center and solid waste facility operators on how to prepare and process materials that will be marketed through the brokerage office;

(f) Issue routine market bulletins containing pricing information and other program details to all local governments, both those participating as well as nonparticipants; and

(g) Handle all paperwork for the brokering service including contracts, invoices, weigh slips, and records of collections and issue revenue checks to participants.

(7) Local governments participating in the Kentucky Recycling Brokerage Authority shall be assessed a brokerage fee of fifteen percent (15%) of the sale revenue or two dollars ($2) per ton of recyclables sold, whichever is greater.

(8) In addition to any brokerage fees received, the authority may receive and accept from any governmental agency, nonprofit organization, or from private enterprise appropriations, grants or contributions of money, property, labor, or other things of value, to be used to carry out the functions of the authority.

(9) The authority shall annually issue financial and informational reports to the General Assembly which shall contain full descriptions of tonnage volumes handled, revenues generated, contracts entered into, market summaries and reviews, and other information under which a full review of the brokerage program is possible. The report shall be due on July 1 of each year.

(10) The authority shall also include in its July 1, 1993 annual report to the General Assembly the following:

(a) A description and analysis of the Commonwealth's existing recycling industry, the types, and estimated amounts of recovered material being separated or reprocessed;

(b) An analysis of the projected long-term capacity of existing markets to absorb materials generated by materials recovery or recycling programs;

(c) An analysis of potential markets in the Commonwealth, in other states, or in foreign countries for recovered material or products manufactured using recovered material from this Commonwealth;

(d) An analysis of institutional, economic, and technical barriers to the use of recovered material or products manufactured using recovered materials;

(e) Recommendations for actions which may be taken to increase demand for recovered materials or products;

(f) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to recover materials;

(g) Recommendations on categories of materials which should be recovered in this Commonwealth, given existing and potential markets for such materials;

(h) Recommendations for a public education program to be implemented by the Natural Resources and Environmental Protection Cabinet and the Environmental Council to provide information to the public and to business and industry on the benefits of materials recovery and recycling and on the availability of those materials or products; and

(i) A review of state and local government procurement policies and recommendations for actions which might be taken to encourage waste reduction and recycling.

(11) In subsequent years the authority shall include in its annual report the following:

(a) Any revisions which the authority determines are necessary to its initial report;

(b) An analysis of changes that have occurred with markets for recovered material and products manufactured using recovered material since the last report; and

(c) Any other recommendations to facilitate the development of markets for recovered material and products manufactured using recovered material in this Commonwealth.

Section 38. KRS 154.315 is amended to read as follows:

The purpose of ***KRS 65.510 to 65.530, 139.483, 154.315 to 154.340*** [~~KRS 65.510 to 65.530, 139.483, 154.310 to 154.345~~] is to create ***within the partnership a program*** [~~a state commission~~] to aid in the promotion and development of river-related industry, agriculture, and commerce in Kentucky; to aid in the promotion and development of local port authorities as authorized by KRS 65.510 to 65.650; to aid in the promotion and development of industrial districts, parks, and sites for accommodating industrial complexes that utilize the rivers and river-related resources; to analyze, plan, and aid in systematically developing river-related resources by the development of services and facilities; to promote the development of industrial parks and terminal facilities for manufacturing and distribution industries for attracting and serving private and public enterprises that are directly or indirectly river-oriented; to promote the exportation of Kentucky made products in foreign commerce, especially as related to the utilization of the navigable waterways; and to establish the powers necessary or appropriate to carry out and effectuate the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 39. KRS 154.330 is amended to read as follows:

(1) The ***partnership*** [~~commission~~] may make application to the proper federal authorities for the establishment of a foreign trade zone wherever and whenever such a zone is desirable. KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~] will constitute legislative authority and approval of such applications, as required by federal law.

(2) Nothing contained in this section shall be construed to prohibit any corporation organized under KRS Chapters 271B and 273 from being organized and chartered for the purposes of establishing, operating and maintaining a foreign trade zone within this state pursuant to KRS 271B.18-060.

(3) As used in this section, "foreign trade zone" means such a zone authorized by 19 U.S.C. sec. 81.

Section 40. KRS 154.335 is amended to read as follows:

The ***partnership*** [~~commission~~] may enter into any and all contracts in its own name for planning, engineering, promotion, and development, consistent with the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], and may enter into contracts for these purposes with any local port authority authorized by KRS 65.510 to 65.650 or any other public or private organization.

Section 41. KRS 154.340 is amended to read as follows:

The ***partnership*** [~~commission~~] may disburse any and all funds appropriated by the Legislature for purposes consistent with KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], any funds received from any state agency, and may apply for, receive, and disburse funds from the federal government, or any other public or private organization or agency for carrying out the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 42. KRS 154.360 is amended to read as follows:

(1) There is created ***within the partnership*** a Kentucky Waterway Marina Development ***Program*** [~~Commission~~]. The ***partnership*** [~~commission~~] shall study various plans and recommendations that are proposed concerning marina development along Kentucky navigable waterways. Based on these studies, the ***partnership*** [~~commission~~] shall formulate a comprehensive plan, recommend state and local legislation for the development of marinas, and coordinate the implementation of the plan and legislation. The ***partnership*** [~~commission~~] may make grants of money to units of local government for the construction or improvement of any marina, if the grants are consistent with the plans, standards, and criteria established by the ***partnership*** [~~commission~~].

(2) If necessary to further the accomplishment of its purposes, the ***partnership*** [~~commission~~] may do the following:

(a) Conduct all studies necessary for the performance of its duties;

(b) Publicize, advertise, and distribute reports on its purposes, objectives and findings;

(c) Provide recommendations in matters related to its functions and objectives to political subdivisions in and adjacent to the waterway corridor and to other public and private agencies;

(d) If requested, act as a coordinating agency for programs and activities of other public and private organizations that are related to its objectives;

(e) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise; ***and***

(f) Hold, use, improve, maintain, operate, own, manage, or lease, as lessor or lessee, real or personal property, or any interest in that property[~~; and~~

~~(g) Employ an executive director and other persons as necessary to carry out its duties~~].

(3) The ***partnership*** [~~commission~~] may receive grants and appropriations from federal, state, and local governments, individuals, foundations, and other organizations. The ***partnership*** [~~commission~~] may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out its activities under this section [~~and KRS 154.365 to 154.385~~].

(4) [~~The commission may appoint advisory committees, the membership of which may include representatives of municipal parks, county parks, national parks, and riverport authorities.~~

~~(5)~~] The goal for any marina project under this section [~~and KRS 154.365 to 154.385~~] shall be to create employment in the private sector.

Section 43. KRS 154.675 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.660 to 154.705, there is hereby created the Enterprise Zone Authority of Kentucky consisting of nine (9) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Municipal League; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; two (2) members appointed by the Governor to serve at large; two (2) members appointed by the Governor from a list of five (5) persons nominated by the ***board of the Kentucky*** [~~secretary of the Cabinet for~~] Economic Development ***Partnership***[~~; and the secretary of economic development~~].

(2) The members shall serve a term of four (4) years, except that the first appointments shall be made as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) All members shall serve until such time as their successors are qualified and appointed.

(4) The ***Kentucky*** [~~Cabinet for~~] Economic Development ***Partnership*** shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 44. KRS 154.750 is amended to read as follows:

(1) There is hereby created ***within the Kentucky Economic Development Partnership,*** a council which shall be known as the "Kentucky Export Council." The council shall be composed of nineteen (19) members appointed by the ***board of the partnership*** [~~Governor. The council shall be attached to the Cabinet for Economic Development for administrative purposes~~].

(2) The members of the council shall be residents of the Commonwealth and shall be appointed with a view to promoting and facilitating international exports from the Commonwealth. The council as a whole shall possess the broadest background and understanding of international export trade.

(3) Initial appointments of the members of the council shall be made as follows: six (6) of the members shall be appointed for a term of two (2) years each; six (6) of the members shall be appointed for a term of three (3) years each; six (6) of the members shall be appointed for a term of four (4) years each. Upon expiration of the terms of the initial appointees their successors shall each be appointed for a term of four (4) years. If a vacancy occurs, the ***board of the partnership*** [~~Governor~~] shall appoint a successor for the remainder of the unexpired term. The council shall be nonpartisan and shall be appointed without reference to party affiliation. The members of the council shall serve without compensation. [~~It is recommended that the Governor designate the secretary of the Commerce Cabinet as chairman of the council.~~] Prior to the first meeting of the council in each fiscal year, the ***council*** [~~Governor~~] shall ***elect from among its membership a chairman and*** [~~appoint one (1) of the members of the council~~] vice chairman.

(4) The council shall meet quarterly and shall hold special meetings on the call of the chairman. Ten (10) members shall constitute a quorum. The council may adopt such administrative regulations as it may deem necessary to govern its procedures.

Section 45. KRS 154.755 is amended to read as follows:

(1) The council shall serve as the coordinating body for international exports of businesses of the Commonwealth. It shall use all resources available to it to enhance the international export capabilities of business in the Commonwealth. Immediately on being organized, the council shall review existing programs for the enhancement of international exports being carried on by the Commonwealth and make recommendations thereon. The council shall be assisted in carrying out its functions by the personnel of the ***partnership*** [~~Cabinet for Economic Development~~].

(2) At least thirty (30) days prior to the end of each fiscal year the council shall make a written report to the Governor and the General Assembly appraising the international export policies and programs of the Commonwealth; reviewing the extent to which international exports have provided employment and income; and, recommending to the Governor and the General Assembly international export policies and programs which will enhance the economic growth and development of the Commonwealth. [~~The council shall particularly examine and study the merits of establishing an export development authority in the Commonwealth. The results of such examination shall be made a part of the written report.~~

~~(3) Boards, commissions, agencies, departments and institutions of the Commonwealth shall assist the council and shall provide it with access to relevant records, data, information and statistics, unless such access is prohibited by law.~~]

SECTION 46. KRS 155.400 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

Sections 46 to 55 of this Act [~~KRS 155.410 to 155.490~~] is known and may be cited as the "Commonwealth Venture Fund Act [~~of 1988~~]."

SECTION 47. KRS 155.410 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~], shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be used by that business to leverage additional capital investments from other sources.

(3) Twenty percent (20%) of the funds available for investment under the provisions of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be for investment in agribusiness or agriculturally related ventures.

SECTION 48. KRS 155.420 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

As used in ***Sections 46 to 55 of this Act*** [~~this chapter~~] unless the context requires otherwise:

(1) "Commonwealth Venture Fund" means the venture capital entity established and managed pursuant to ***Section 49 of this Act*** [~~KRS 155.430~~].

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; and

(d) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business" means a Kentucky based company, employing less than one hundred (100) people, with capitalization limits as follows:

(a) Less than five hundred thousand dollars ($500,000) for a nonmanufacturing firm; or

(b) Less than one million five hundred thousand dollars ($1,500,000) for a manufacturing firm.

(6) "Capitalization" means owners' equity, common stock, preferred stock and retained earnings.

(7) "Agribusiness" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor or an agriculturally related business.

SECTION 49. KRS 155.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) (a) To carry out the purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~], a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4), (5), and (6) of this section, with the name Commonwealth venture fund to provide financing to Kentucky based businesses including, but not limited to, corporations and partnerships.

(b) Until such time as the fund is invested in such small businesses, it may be invested in such obligations and securities as the panel or the managing firm deems prudent.

(2) The financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to five hundred thousand dollars ($500,000).

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) The secretaries of the Kentucky Finance and Administration[~~, Commerce~~] and Revenue Cabinets ***and the president of the Kentucky Economic Development Partnership***. The ***president of the partnership*** [~~secretary of finance and administration~~] shall act as chairman of the panel and the secretary of ***finance and administration*** [~~commerce~~] shall act as vice chairman;

(b) Five (5) members appointed by the Governor for a term not exceeding four (4) years. The terms of these members shall expire and cease upon the election referred to in paragraph (c);

(c) When the fund has raised a minimum of five million dollars ($5,000,000) in commitments for investment and an initial closing has been held, the investors in the fund shall elect five (5) representatives to the panel for a two (2) year term. At the conclusion of that initial two (2) year term, the investors in the fund at that time shall elect five (5) representatives to the panel to serve terms as shall be established by the panel. The investors shall be entitled to one (1) vote for each one thousand dollars ($1,000) in capital contributed; and

(d) After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member.

(4) The panel shall be staffed by the ***Kentucky Economic Development Partnership under the direction of the president of the partnership*** [~~Finance and Administration and Commerce Cabinets as directed by the secretary of finance and administration acting in his capacity as chairman of the panel~~].

(5) The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] and on prudent financial and investment practices and standards.

(6) Any private financial entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel shall select an applicant to be the managing firm of the Commonwealth venture fund.

(7) The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees, and determine the policy for dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund. The panel shall not authorize any dividends to be paid from income received from investments made pursuant to subsection (1)(b) of this section until such income has been reinvested in a small business for at least five (5) years.

(8) Administrative regulations necessary to carry out the purposes of ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be promulgated and issued by the panel. The guidelines and regulations shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be promulgated.

SECTION 50. KRS 155.440 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Subject to ***Section 51 of this Act*** [~~KRS 155.450~~], a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1989, if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1988, 1989, 1990 and 1991. The total amount of credit that a taxpayer may receive under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (0.4).

(2) The amount of credit that a taxpayer may receive under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] for a particular taxable year shall not exceed the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1994. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] for any subsequent tax year.

SECTION 51. KRS 155.450 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The total amount of credits allowed under ***Sections 46 to 55 of this Act*** [~~this chapter~~] shall not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 52. KRS 155.460 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~] shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under ***Sections 46 to 55 of this Act*** [~~KRS 155.410 to 155.490~~].

SECTION 53. KRS 155.470 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) To receive the credit provided by ***Section 50 of this Act*** [~~KRS 155.440~~], a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the Revenue Cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the Commonwealth venture fund as to the qualified investment by the taxpayer.

(2) The managing firm of the Commonwealth venture fund shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment the following:

(a) The name, address, and employer identification number of the Commonwealth venture fund;

(b) The name, address, and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the Revenue Cabinet shall be filed by the managing firm of the Commonwealth venture fund on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the managing firm of the Commonwealth venture fund and to the panel on or before that same date.

SECTION 54. KRS 155.480 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) If a qualified investment which is the basis for a credit under ***Sections 46 to 55 of this Act*** [~~this chapter~~] is redeemed by the fund or withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the Revenue Cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

SECTION 55. KRS 155.490 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The reporting requirements from the managing firm to the panel, authorized in ***subsection (7) of Section 49*** [~~KRS 155.430(7)~~] of this Act, shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the Governor and the Legislative Research Commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

Section 56. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~office of the secretary, Cabinet for Economic Development, for administrative purposes~~].

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the commissioner of employment services, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], the secretary of labor, the chairman of the Council on Higher Education, and the chief state school officer. Thirteen (13) members shall be appointed by the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~], including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~] shall serve for a term of four (4) years, except that in making the initial appointments, the ***board of the Kentucky Economic Development Partnership*** [~~Governor~~] shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the ***board of the partnership*** [~~Governor~~] may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the ***board of the partnership*** [~~Governor~~] for cause.

(6) The ***board of the partnership*** [~~Governor~~] shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) [~~The board shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.~~

~~(10)~~] All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 57. KRS 56.870 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and sale of any definitive bonds or temporary bonds, or the securing of any interim financing through bond anticipation notes, loan agreements or by any other means, each agency, authority, board, corporation, cabinet, commission, or any other agency or instrumentality of the Commonwealth shall first obtain approval of any such financing from the General Assembly, sitting in regular or special session. Such approval shall be evidenced by the adoption by the General Assembly of a specific act or the adoption by the General Assembly of the biennial branch budget bill which shall specify the purposes for such financing.

(2) The biennial branch budget bill shall also establish a ceiling for revenue bonds which require a general fund appropriation to retire.

(3) The provisions of subsection (1) of this section shall not be applicable to the financing of any project in any case where the project for which financing is proposed is certified by the Governor, as hereinafter provided, to be of such type as to independently produce revenues sufficient to fully meet debt service***, issuance costs, reserve fund requirements, insurance premiums and any other expenditures necessary for*** [~~on such~~] financing so that no appropriation of state [~~general~~] funds will be required. ***Repayments of revolving funds established with bond issues for which debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with the issuance of bonds is appropriated by the General Assembly shall not be deemed independently produced revenue.*** Such certification shall be made in writing by the secretary of the Finance and Administration Cabinet to the statutory head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission.

SECTION 58. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Prior to the issuance of the revenue bonds or notes, the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

Section 59. KRS 141.347 is amended to read as follows:

State income tax that would otherwise be owed by the corporation to the Commonwealth, except for ***subsection (3)(a) of Section 27 of this Act*** [~~KRS 152.278(3)(a)~~], by an approved company on the income generated or arising from an approved company operation or activity as an economic development project, shall be determined as follows:

(1) A corporation which is an approved company subject to income tax under KRS 141.040 shall compute the income tax due pursuant to KRS 141.010(13) to 141.010(14) including net income from the economic development project, subject to the applicable tax rate on taxable income.

(2) The corporation shall then compute the net income of the approved company as defined in subsection (1)(a) of this section excluding the net income from the economic development project subject to the applicable tax rate on taxable income.

(3) The difference between the tax computed in subsections (1) and (2) of this section equals the income tax to be permitted to be applied as a credit by an approved company toward income tax owed, such credit not to exceed the total debt service under the respective financing agreement.

(4) Net income excluded from taxable income in computing the tax due under subsection (2) of this section shall be determined under a separate accounting method reflecting only the gross income, deductions, expenses, gains and credits allowed under KRS Chapter 141.

(5) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of ***Sections 23 to 29 of this Act*** [~~KRS 152.262 to 152.298~~] and

the allowable income tax which an approved company may retain under ***Sections 23 to 29 of this Act*** [~~KRS 152.262~~ ~~to~~ ~~152.298~~].

Section 60. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.

(5) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111 and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

(7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.

(8) "Construction" means and includes, but is not limited to:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Natural Resources Cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.

(11) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multimunicipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

(14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.

(15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the Natural Resources Cabinet, Public Service Commission, or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas or electric utility; or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(17) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance, and delivery of long-term debt obligations to effect assistance to said governmental agency.

(18) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(19) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(20) "Natural Resources Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(21) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(22) ***"Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act.***

(23) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(24)[~~(23)~~] "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(25)[~~(24)~~] "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Natural Resources Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the Department of Local Government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(26)[~~(25)~~] "Project" or "solid waste project" means construction, renovation or acquisition of a solid waste facility which shall be publicly owned.

(27)[~~(26)~~] "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.

(28)[~~(27)~~] "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet.

(29)[~~(28)~~] "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(30)[~~(29)~~] "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.

(31)[~~(30)~~] "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(32)[~~(31)~~] "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).

(33)[~~(32)~~] "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

(34)[~~(33)~~] "State" means the Commonwealth of Kentucky.

(35)[~~(34)~~] "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(36)[~~(35)~~] "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in KRS 224A.120.

(37)[~~(36)~~] "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

(38)[~~(37)~~] "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(39)[~~(38)~~] "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(40)[~~(39)~~] "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground waters.

(41)[~~(40)~~] "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

Section 61. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of seven (7) members. The secretaries of the [~~Economic Development,~~] Finance and Administration[~~,~~] and Natural Resources and Environmental Protection Cabinets[~~,~~] and the ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~commissioner of the Department of Local Government~~] shall serve as ex officio members of the authority. On or before August 1, 1992, the Governor shall additionally appoint ***four (4)*** [~~three (3)~~] at large members who shall serve as follows: ***two (2)*** [~~one (1)~~] shall serve a term ending June 30, 1996; one (1) shall serve a term ending June 30, 1995; and one (1) shall serve a term ending June 30, 1994. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. The ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Finance and Administration Cabinet~~] shall serve as chairperson. The members of the authority shall choose from their ranks a vice-chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority.

(4) The authority shall ***be attached to the Kentucky Economic Development Partnership***, [~~for administrative purposes, be attached to the Finance and Administration Cabinet,~~] and shall establish and maintain offices in premises which shall be provided for that purpose by the ***partnership*** [~~Finance and Administration Cabinet~~]; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 62. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital Projects and Bond Oversight Committee of the Legislative Research Commission before approval by the Finance and Administration Cabinet ***and the Kentucky Economic Development Partnership***, may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;

(2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments or obligations of the governmental agency to be purchased by the authority;

(3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;

(4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;

(5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;

(c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;

(d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;

(e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;

(8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111 and 224A.112:

(a) The aggregate principal amount of the loan; and

(b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (1/4 of 1%), except as provided for in KRS 224A.111 and 224A.112;

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid,with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

Section 63. KRS 224A.112 is amended to read as follows:

(1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies for the construction or acquisition of infrastructure projects when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available when the authority finds that both a hardship and an extreme health hazard exist.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111 or for any infrastructure projects on the prioritization schedule prepared by the ***Kentucky Economic Development Partnership*** [~~department of local government~~].

(6) The ***president of the partnership*** [~~department of local government~~] shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund. In establishing its prioritization schedule, the ***partnership*** [~~department of local government~~] shall consider the following factors:

(a) Local employment;

(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;

(c) The relationship of the infrastructure project to the governmental agency's economic development;

(d) The reasonableness of the proposed costs;

(e) The probable effectiveness of the infrastructure project as proposed; and

(f) Any other criteria that the department of local government considers advisable.

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

Section 64. KRS 224A.113 is amended to read as follows:

The authority, the Natural Resources Cabinet or the ***board of the partnership*** [~~department of local government~~] may promulgate administrative regulations ***in accordance with KRS Chapter 13A*** to implement KRS 224A.111 and 224A.112.

Section 65. KRS 45.810 is amended to read as follows:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the Capital Projects and Bond Oversight Committee for review and recommendation. The Turnpike Authority ***and*** [~~,~~] the School Facilities Construction Commission[~~, and the Kentucky Development Finance Authority~~] shall be exempt from this review.

(2) The Capital Projects and Bond Oversight Committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the appropriations act.

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the Finance and Administration Cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the ***board of the Kentucky Economic Development Partnership or the*** secretary of the Finance and Administration Cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

Section 66. KRS 224.01-210 is amended to read as follows:

(1) The Environmental Board is established, which shall control and manage the Environmental Trust Fund. The board shall be composed of nine (9) members as follows: the secretary of the Natural Resources and Environmental Protection Cabinet, the chairman of the Environmental Quality Commission, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], and six (6) members-at-large to be appointed by the Governor. The board members shall elect the chairman.

(2) The six (6) members-at-large shall be appointed for terms of four (4) years. The remaining members shall be permanent members. The six (6) members-at-large shall be appointed from the following: two (2) from manufacturers, mineral extraction industry, or agribusiness; two (2) from the state-supported university system; one (1) from public health or environmental citizen groups; and one (1) an educator specializing in environmental education. Vacancies in the members-at-large appointments shall be filled in the same manner as originally appointed, and appointments to fill these vacancies shall be for the remainder of the unexpired term.

(3) The board shall meet at least once each calendar quarter or more often on the call of the chairman.

(4) No member of the board shall receive any salary, fee, or other remuneration for services as a member of the board but each member shall be reimbursed for travel expenses incurred in the performance of duties as a board member.

(5) The secretary and the staff of the cabinet shall serve as staff for the board.

(6) The cabinet may provide legal representation to the board or the board may enter into personal service contracts pursuant to KRS Chapter 45 to obtain legal counsel.

(7) Six (6) members of the board shall constitute a quorum for conducting business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(8) The cabinet shall annually prepare a proposed program and a list of projects for public comment and review for the board's consideration.

Section 67. KRS 224.46-315 is amended to read as follows:

There shall be established a center for hazardous waste reduction, which shall be a technical information and assistance office to be located at a state-owned university, which shall facilitate and promote the commercial implementation of hazardous waste reduction technologies and procedures by providing technical and financial assistance, as available, to business and industry. The center shall be governed by a board of directors appointed by the Governor and representing the following organizations: the Kentucky General Assembly, the Natural Resources and Environmental Protection Cabinet, the ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~], the Labor Cabinet, the Department of Agriculture, the Council on Higher Education, the Kentucky Environmental Education Association, the Kentucky Municipal League, the Kentucky Chamber of Commerce, the Associated Industries of Kentucky, the Kentucky Society for Professional Engineers, the Kentucky Resources Council, and Kentuckians for the Commonwealth.

Section 68. KRS 224.46-590 is amended to read as follows:

The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~] shall cooperate with the special assistant to the Governor for coal and energy policy in examining the feasibility of a hazardous waste treatment-industrial park complex approach to the siting of hazardous waste management facilities and the promotion of industrial development. Consistent with the state policy of encouraging reuse and treatment of hazardous waste and of minimizing land disposal, the study shall be based on development of integrated facilities consisting of a variety of treatment and disposal systems at a given site associated with industrial plants. The study shall at a minimum:

(1) Survey the attitudes of various industries towards this approach;

(2) Survey public attitudes and perceptions towards this approach;

(3) Identify the advantages and disadvantages to industry, the Commonwealth, and local communities;

(4) Survey the degree to which the availability of hazardous waste management facilities has a bearing on the location of new industry;

(5) Develop a list of industry types with compatible waste streams for exchange, neutralization, or incineration;

(6) Identify economic or technical barriers to this approach; and

(7) Report its findings and recommendations to the 1982 General Assembly.

Section 69. KRS 224.46-850 is amended to read as follows:

(1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.

(2) It shall be the responsibility of the ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~Cabinet for Economic Development~~] in coordination with the Governor's Office for Coal and Energy Policy to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 70. KRS 224.46-870 is amended to read as follows:

The ***Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~Cabinet for Economic Development~~] and the Governor's Office for Coal and Energy Policy shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 71. KRS 224.43-815 is amended to read as follows:

(1) The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~] and the special assistant to the Governor for coal and energy policy, with the approval of the Governor and the Legislative Research Commission, may execute contracts pursuant to KRS 224.43-810.

(2) No agreements or contracts may be entered into before a regional integrated waste treatment and disposal demonstration facility has received a certificate of environmental safety and public necessity from the board established in KRS 224.46-820.

Section 72. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application, and any covenants and

undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by the Kentucky ***Economic Development Partnership*** [~~Development Finance Authority~~] and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109 shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission shall be authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of an alternate.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 73. KRS 153.530 is amended to read as follows:

(1) The Citizens Advisory Commission on Kentucky Films is created as an agency of state government, and it shall be attached to the Department of the Arts for administrative and budgetary purposes. The commission shall serve in an advisory capacity to the Department of the Arts in the planning and implementation of programs dealing with the film industry.

(2) The commission shall consist of nineteen (19) members appointed by the Governor, with the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~] and the commissioner of the Department of the Arts serving ex officio. The other seventeen (17) members shall be appointed by the Governor on the basis of their interest in or relationship to the development of a film industry in Kentucky, and one (1) member shall be designated as chairman. Members shall serve a term of four (4) years. Members of the commission shall receive twenty-five dollars ($25) per diem and necessary expenses for the performance of their duties.

(3) Meetings of the commission may be called by the chairman or by a majority of the commission membership. A majority of the commission membership shall constitute a quorum for the purpose of conducting commission business.

(4) The chairman of the commission, subject to the prior written approval of the commission, shall appoint an executive director who shall serve as the chief operating officer of the commission. The executive director, subject to the approval of the chairman, shall hire personnel, prescribe their duties, and fix their compensation within the limitations imposed by law.

(5) The commission shall have all necessary and appropriate powers to carry out these responsibilities:

(a) Establishment of a close working relationship with film industry representatives in this country and abroad, if appropriate;

(b) Coordination of locational activities in Kentucky;

(c) Provision of liaison activities during actual film production;

(d) Performance of all appropriate research and background work related to determination of film industry plans and requirements; and

(e) Establishment of an aggressive promotional and informational effort designed to attract film producers to Kentucky.

(6) The commission shall have the cooperation and assistance of [~~the Cabinet for Economic Development, the Department of the Arts, and~~] all [~~other~~] state agencies. Such state agencies shall interaccount the commission for goods and services utilized by the commission.

Section 74. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission shall be attached to the Office of the Secretary of the Tourism Cabinet for administrative purposes.

(2) The commission shall consist of the following eleven (11) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judges/executive of Ballard, Carlisle, Fulton, and Hickman Counties in Kentucky. Other members shall be the secretary of the Tourism Cabinet or his designee; the ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Economic Development Cabinet~~], or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical, and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman, and Fulton.

Section 75. KRS 152A.305 is amended to read as follows:

(1) The Kentucky Coal Authority, a body corporate and politic, is created by KRS 152A.300 to 152A.325 to further the cooperation of government and industry for the purpose of protecting and expanding markets for Kentucky coal. The authority shall be composed of seventeen (17) members, as follows:

(a) The secretary of the Executive Cabinet, who shall chair the authority;

(b) The Governor's special assistant for coal and energy policy, who shall serve as vice chair of the authority;

(c) The secretary of the Cabinet for Natural Resources and Environmental Protection;

(d) The secretary of the Transportation Cabinet;

(e) The ***president of the Kentucky Economic Development Partnership as created in Section 3 of this Act*** [~~secretary of the Cabinet for Economic Development~~]; and

(f) Twelve (12) members appointed by the Governor, including representatives of various interests concerned with the Kentucky coal industry, such as the owners or operators of companies involved in coal production, transportation, and consumption; citizens and persons representing environmental interests; representatives of the academic and financial communities; representatives of major labor organizations; and representatives of major coal associations. These seventeen (17) persons and their successors in office shall constitute the Kentucky Coal Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by KRS 152A.300 to 152A.325, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The Governor's Office for Coal and Energy Policy shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's actions and proceedings, which shall be public records open to inspection.

Section 76. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky ***Economic*** Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under ***subsection (14) of Section 2 of this Act*** [~~KRS 154.010(9)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky ***Economic*** Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 77. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing two hundred thousand (200,000) or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The ***secretary*** [~~secretaries~~] of the Natural Resources and Environmental Protection Cabinet, the ***president of the Kentucky Economic Development Partnership,*** [~~Cabinet for Economic Development, and~~] the commissioners of the Agriculture and Mines and Minerals Departments, and the special assistant to the Governor for coal and energy policy shall be ex officio members.

Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 78. KRS 342.0012 is amended to read as follows:

(1) There is hereby created the Kentucky Workers' Compensation Advisory Council which shall consist of sixteen (16) members appointed by the Governor. Each member shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(2) Vacancies shall be filled by appointment of the Governor for the unexpired term of the member whose office is vacant and shall be made within sixty (60) days of the occurrence of the vacancy.

(3) Annually, the members of the council shall elect co-chairmen. One co-chairman shall be elected by the members of the council representing labor and the other co-chairman shall be elected by the members representing management. A majority of the members of the council shall constitute a quorum for the transaction of business.

(4) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the co-chairmen or a majority of the members.

(5) The council shall be attached to the Labor Cabinet for administrative purposes, and the secretary of labor shall supply necessary staff and supplies to the council.

(6) The principal office of the council shall be located in Frankfort, Kentucky, but meetings of the council may be held at any location in the Commonwealth of Kentucky.

(7) In making appointments to the council, the Governor shall appoint eight (8) members representing labor and eight (8) members representing management.

(8) The council shall not infringe upon or assume the duties of the Labor Cabinet, ***the Kentucky Economic Development Partnership,*** [~~Cabinet for Economic Development~~] or the Department of Insurance. The council shall serve in an advisory capacity and shall make recommendations to the Governor and the legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employees; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary.

Section 79. KRS 342.1224 is amended to read as follows:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the Labor Cabinet, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development,~~] the secretary of the Revenue Cabinet, and four (4) members who shall be appointed by the Governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the ***president of the Kentucky Economic Development Partnership*** [~~secretary for economic development~~], who shall represent employers, provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employees from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years, except that the initial terms of the members shall be staggered as follows:

(a) The initial member appointed by the Governor to represent labor shall serve a term of one (1) year. Thereafter, such member shall serve a term of four (4) years;

(b) The initial member appointed by the Governor to represent employers shall serve a term of two (2) years. Thereafter, such member shall serve a term of four (4) years;

(c) The initial member appointed by the Governor to represent insurance companies shall serve a term of four (4) years. Thereafter, such member shall serve a term of four (4) years; and

(d) The initial member appointed by the Governor to represent self-insured employers shall serve a term of three (3) years. Thereafter, such member shall serve a term of four (4) years.

(4) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(5) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(6) Notwithstanding any other law, the Governor, pursuant to an executive order, may cause the employees of the commission to be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.

(7) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

(8) The board of directors of the Kentucky workers' compensation funding commission are hereby determined to be officers and agents of the Commonwealth of Kentucky and, as such, shall enjoy the same immunities from suit for the performance of their official acts as do other officers of the Commonwealth of Kentucky.

Section 80. KRS 281.900 is amended to read as follows:

(1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by KRS 281.905.

(2) The committee shall consist of the secretary of the Transportation Cabinet, the secretary of the Revenue Cabinet, the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Economic Development Cabinet~~], the Speaker of the House, the President Pro Tem of the Senate, or their respective designated representatives and nine (9) representatives of the motor carrier industry engaged in operations in the Commonwealth in the transportation of persons or property.

(3) On July 15, 1990, the Governor shall appoint the motor carrier industry representative to the committee. Members shall be appointed by the Governor for three (3) years, except that initial appointments to the board shall be staggered in the following manner:

(a) Three (3) members shall serve for a period of one (1) year;

(b) Three (3) members shall serve for a period of two (2) years; and

(c) Three (3) members shall serve for a period of three (3) years.

(4) Motor carrier industry representatives of the committee shall qualify for membership by taking the constitutional oath of office and shall be provided with certificates of appointments. The members of the committee shall serve without per diem or compensation.

Section 81. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The Office of the Commissioner, with the Egg Marketing Board, the Dog Law Advisory Committee, and the Kentucky Grain Insurance Corporation attached to it for administrative purposes.

(2) The State Board of Agriculture.

(3) The Office of Market Services, which shall include the following:

(a) [~~The Division of Market Development;~~

~~(b)~~] The Division of Market Research; and

(b)[~~(c)~~] The Division of Livestock and Agricultural Services.

(4) The Office of Agri-Business Standards, which shall include the following:

(a) The Division of Weights and Measures;

(b) The Grain and Hay Division;

(c) The Food Distribution Division; and

(d) The Division of Shows and Fairs.

(5) The Office of State Veterinarian, which shall include:

(a) The Division of Animal Health and Administrative Records; and

(b) The Division of Animal Health Field Enforcement.

(6) The Office of Consumer Safety, which shall include the following:

(a) The Division of Pest and Noxious Weeds;

(b) The Division of Pesticides and;

(c) The State and Federal Meat Lab Division.

(7) The Division of Administrative Services, which shall assume all functions, funds, property and personnel of the Division of Statistics and the Milk Marketing and Antimonopoly Commission which are abolished.

(8) The Kentucky Council on Agriculture.

(9) The department shall not be precluded from developing programs to market agricultural products.

Section 82. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor***, the board of the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor***, the board of the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint

legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by ***the board of the Kentucky Economic Development Partnership, or*** another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within sixty (60) days after it is filed with the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor***, the board of the Kentucky Economic Development Partnership,*** or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor***, the board of the Kentucky Economic Development Partnership,*** and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 83. KRS 42.005 is amended to read as follows:

As used in KRS 42.010, unless the context requires otherwise:

(1) "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by statutorily authorized executive action as a "department";

(2) "Division" means a major branch of a department established by statute or by statutorily authorized administrative action;

(3) "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council, office***, partnership as defined in Section 2 of this Act,*** and any other form or organization in the executive branch of government, but does not include "department," "program cabinet" or "division";

(4) "Program cabinet" means a group of departments, or departments and commissions, or other administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

Section 84. KRS 65.910 is amended to read as follows:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services, and all expenditures as set forth in this section.

(2) Demographic information shall include:

(a) The name of the unit of local government;

(b) The county in which the city or special district is located;

(c) The classification of the city;

(d) The population of the unit of local government;

(e) The form of government of the city; and

(f) The area development district in which the unit of local government is located.

(3) Bonded indebtedness and debt service information shall include:

(a) The name of each project listed individually;

(b) The type of bond issue used for each project;

(c) The bonded indebtedness of each project;

(d) The debt service requirements of each project; and

(e) The specific source of debt service funds, whether local government appropriations or use of non-government funds.

(4) Lease-purchase agreement information shall include:

(a) Purpose of the agreement;

(b) Identity of the lessor;

(c) Principal amount of the agreement;

(d) Interest rate or rates for the agreement;

(e) Date the local government entered into agreement;

(f) Length of term of agreement;

(g) Current annual debt service requirements for agreement; and

(h) A list of and the purpose of any short-term renewal bank notes.

(5) Tax rate and revenue information shall include:

(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;

(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, tangible and intangible personal property, and motor vehicles; and

(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:

1. Occupational license tax on persons;

2. Occupational license tax on business net profits, gross receipts, or a flat rate;

3. Business inventory tax;

4. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;

5. Transient room tax;

6. Restaurant tax;

7. Bank shares;

8. Tobacco in storage;

9. Delinquent collections; and

10. Special purpose and other taxes.

(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:

(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;

(b) Required sticker fees on automobiles and trucks;

(c) Motor vehicles fees on taxicabs, truck-tractors, semitrailers and trailers;

(d) Coin-operated machines;

(e) Cable television;

(f) Building, electrical, and plumbing permits;

(g) Zoning permits and development impact fees;

(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;

(i) Licensing of electricians and electrical contractors;

(j) Unloading fees;

(k) Public service fees for fire protection, police protection;

(l) Ambulance service franchise fees and ambulance run fees;

(m) Animal license fees; and

(n) Any other source of license, permit or fee.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:

(a) Waterworks;

(b) Sewage treatment;

(c) Electric light, heat, and power;

(d) Gas;

(e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;

(f) Transit authority; and

(g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:

(a) Kentucky Law Enforcement Foundation Program fund;

(b) Professional Firefighters Foundation Program fund;

(c) Community development block grant funds;

(d) County or municipal road aid;

(e) Local government economic assistance funds;

(f) Net court revenues;

(g) Kentucky Infrastructure Authority funds;

(h) Economic development bonds;

(i) Kentucky ***Economic*** Development Finance Authority funds;

(j) Environmental Protection Agency funds;

(k) County or city transfers; and

(l) Any other source of state or federal funds.

(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:

(a) Parking meter receipts;

(b) Parking facility receipts;

(c) Parking violation fines;

(d) Charges for impounded vehicles;

(e) Sale of abandoned vehicles;

(f) Delinquent tax bills;

(g) Fines and forfeitures;

(h) Penalties and interest;

(i) Franchise payments for governmental services bid out to the private sector;

(j) Golf course receipts;

(k) Parks and recreation;

(l) Proceeds from sale of seized and forfeited property;

(m) Rent;

(n) Interest from investments and dividends; and

(o) Any other source of revenue or charge for service.

(10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department of Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

Section 85. KRS 64.055 is amended to read as follows:

(1) The salaries of circuit clerks, payable out of the State Treasury per annum, subject to the minimum provided by subsection (2) of this section and to the calculation provided by subsection (3) of this section, shall be:

Population of County	Annual Salary
0 - 4,999	$ 11,000
5,000 - 9,999	14,000
10,000 - 14,999	17,000
15,000 - 19,999	19,000
20,000 - 29,999	20,000
30,000 - 39,999	21,000
40,000 - 49,999	21,500
50,000 - 99,999	22,000
100,000 - 499,999	22,500
500,000 - and up	25,000

(2) The annual compensation payable to each circuit clerk beginning on July 1, 1980, shall be two thousand dollars ($2,000) in excess of the annual compensation payable as of June 30, 1980; the annual compensation payable to each circuit clerk beginning on July 1, 1982, shall be two thousand dollars ($2,000) in excess of the annual compensation then otherwise payable including the amount calculated as the increase or decrease as provided by subsection (3) of this section.

(3) In order to equate or adjust the compensation of circuit clerks with the purchasing power of the dollar, the Department of Local Government shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the Department of Local Government, the annual compensation of circuit clerks for fiscal year 1982 and each fiscal year thereafter shall be set at a rate which includes the adjustment for the increase or decrease in the consumer price index, but in no event shall a circuit clerk receive an annual increase exceeding six percent (6%) of salary.

(4) For purposes of determining movement of Circuit Court clerk salaries from calendar year 1976 level to the maximums for calendar year 1978 as outlined above, the following guidelines should be used:

(a) The actual calendar year 1976 salary of the Circuit Court clerk, as certified by the Administrative Office of the Courts from information supplied by the Auditor of Public Accounts, will be adjusted to the 1977 cost of living increase to be determined by the Kentucky ***Economic Development Partnership*** [~~Department of Economic Development~~]. This adjusted figure will be the base to compare with the salary maximums outlined above;

(b) Those clerks whose base, as determined in paragraph (a) of this subsection, does not reach the maximums outlined above, will be allowed yearly increases up to twenty percent (20%) of the base, not to exceed the maximums outlined above;

(c) Those clerks whose base, as determined in paragraph (a) of this subsection, is equal to or greater than the maximums outlined above, will be allowed a one (1) time ten percent (10%) adjustment to their base salary as determined in paragraph (a) of this subsection;

(d) The initial population determination for compensation under this section shall be based on the 1970 federal census or the "final" issue of "Current Population Reports, 1974" issued by the United States Bureau of the Census, whichever is greater. In 1981 and thereafter, population shall be based on the decennial census; and

(e) The annual salary for 1978 for each Circuit Court clerk shall be no less than seventy-five percent (75%) of the maximum amount permitted for each population category.

Section 86. KRS 103.2101 is amended to read as follows:

(1) In addition to the duties specified in KRS 103.286, it shall be the duty of the Kentucky Private Activity Bond Allocation Committee to review only those projects authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1), and only off-street parking facilities, cable television, and mass communication facilities as authorized by paragraph (b) of KRS 103.200(1), whether by cities, counties, urban-county governments, air boards, riverport authorities, or the Kentucky ***Economic*** [~~Industrial~~] Development Finance Authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(2) If the committee finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.

(3) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(4) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(5) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.

Section 87. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of the Finance and Administration Cabinet, who shall be chairman of the committee; the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~]; the state budget director; the executive director of the Office for Program Administration; and the commissioner of the Department of Local Government, or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of such bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first seventy-five percent (75%) of the term shall be designated as a period in which the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for local bond issuance authorities.

(b) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the last twenty-five percent (25%) of the term shall be designated by the committee as the period in which the remaining unallocated cap shall revert to a single pool to be allocated on a first-come, first-serve basis to state and local governments.

(3) The secretary of the Finance and Administration Cabinet shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by this section shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section, or with the allocation, application, or review procedures established by the secretary of the Finance and Administration Cabinet.

Section 88. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the Superintendent of Public Instruction, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~], or the executive director of the Council on Higher Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet[~~, or the commissioner of the Department for Existing Business and Industry,~~] or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 89. KRS 164.3572 is amended to read as follows:

(1) In furtherance of the Commonwealth's economic development programs, the Governmental Services Center may, upon request of the ***Kentucky Economic Development Partnership*** [~~Cabinet for Economic Development~~] and as financial and staff resources permit, develop, coordinate, implement, assist, and provide private industry with consultation, research, programs, and employee assessment services.

(2) The Governmental Services Center may enter into contractual agreements with private industry, as necessary to allow the Governmental Services Center to properly perform its duties and responsibilities as established by KRS 164.3571 to 164.3573.

(3) Any private industry whose employees or prospective employees receive the benefit of any of the Governmental Services Center's programs shall reimburse the Governmental Services Center for the costs and expenses which it incurs as a result of developing, coordinating, implementing, and conducting any of the programs or services provided in KRS 164.3571 to 164.3573.

Section 90. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.

(2) The committee shall coordinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;

(c) The ***president of the Kentucky Economic Development Partnership, or his designee*** [~~commissioner of the Department for Existing Business and Industry, Cabinet for Economic Development~~];

(d) The executive director of the Bluegrass State Skills Corporation;

(e) The executive director of the Governor's Council on Vocational Education;

(f) The office head for the Office of Vocational Rehabilitation;

(g) The office head for the Office of Vocational Education;

(h) The office head for the Office of Adult Education;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on Higher Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 91. KRS 151B.220 is amended to read as follows:

(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the ***president of the Kentucky Economic Development Partnership*** [~~secretary for economic development~~], the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of twenty (20) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult and Technical Education, and the ***president of the Kentucky Economic Development Partnership*** [~~secretary of the Cabinet for Economic Development~~] shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 92. KRS 247.942 is amended to read as follows:

As used in KRS 247.940 to 247.978, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Agricultural loan" means a loan made by a lending institution to any person for the purpose of financing agricultural diversification and alternative crop production; land acquisition or improvement; soil conservation; irrigation; construction; renovation or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry, and fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies or any other products employed in the production, cultivation, harvesting, storage, marketing, distribution, or export of agricultural products;

(2) "Applicant" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor or an agriculturally related business. To be considered an "applicant" under this definition, it is necessary that either:

(a) The prospective applicant be a "first-time farmer" as defined by the federal government who derives at least one-half (1/2) of his annual gross income from said endeavor or business, for three (3) years after the loan is approved. Furthermore, under this definition the prospective applicant shall not derive more than one-hundred thousand dollars ($100,000) annual net income from all sources during the fiscal year preceding the year in which the loan application is made; or

(b) The prospective applicant be a Kentucky citizen currently engaged in an agricultural endeavor; derive at least three-fourths (3/4) of his annual gross income from farming or other agricultural endeavors; and shall not derive more than fifty thousand dollars ($50,000) annual net income from all sources, including spousal income, in the tax year preceding application;

(3) "Board" means the board of directors of the corporation;

(4) "Bond resolution" or "resolution" means the formal document of the corporation authorizing its obligations;

(5) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under KRS 247.940 to 247.978;

(6) "Commissioner" means the Commissioner of Agriculture;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Corporation" means the Kentucky Agricultural Finance Corporation created by KRS 247.944;

(9) "Department" means the Department of Agriculture;

(10) "Governmental agency" means any city, county, or other political subdivision of the Commonwealth and any department, division, or public agency thereof, the federal government or any political subdivision of any other state and any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing in the area of assistance to agriculture;

(11) "Issuing agency capacity" means the action of the corporation in authorizing revenue bonds for a qualified project in accordance with the provisions of KRS 103.210 to 103.285 in which the corporation's liability is limited primarily to fiduciary duties;

(12) "Lending agency capacity" means the action of the corporation in participating directly or indirectly in the making of loans to or the purchasing of loans of qualified applicants;

(13) "Lending institution" means any bank, bank or trust company, or institutions of the farm credit system organized under the Farm Credit Act of 1971, 12 U.S.C.A. 2001 et seq., as amended, building and loan association, homestead, insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, the federal government, or any other financial institution authorized to do business in the Commonwealth of Kentucky or operating under the supervision of any federal agency or any corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

(14) "Obligations" means any bonds or notes authorized to be issued by the corporation under the provisions of KRS 247.940 to 247.978;

(15) ***"Partnership" means the Kentucky Economic Development Partnership as created in Section 3 of this Act;***

(16) "Project" means any undertaking to provide for the financing of the acquisition, construction, renovation, or improvement of land, buildings, machinery, equipment, and livestock in the area of agricultural enterprise; including growing, storing, processing, warehousing, marketing, and distribution facilities in respect thereof or to provide for refinancing existing agricultural facilities;

(17)[~~(16)~~] "Trust agreement" means an indenture by and between the corporation and the corporate trustee setting forth the rights and duties of each relating to the authorization, sale, issuance, delivery, and payment of the corporation's obligations; and

(18)[~~(17)~~] "Umbrella obligation" means bonds or notes issued by the corporation in its issuing agency capacity or its lending agency capacity under the provisions of KRS 247.940 to 247.978, the proceeds of which may be used in the financing of multiple projects for two (2) or more applicants.

Section 93. KRS 247.944 is amended to read as follows:

(1) There is hereby created and established the Kentucky Agricultural Finance Corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture through the Commonwealth.

(3) The corporation shall be governed by a board of directors consisting of twelve (12) members appointed by the Governor, three (3) of whom may be ex officio members of the board as follows:

(a) The Commissioner or his designee;

(b) The secretary, Finance and Administration Cabinet, or his designee; and

(c) The ***president of the Kentucky Economic Development Partnership*** [~~Lieutenant Governor or his designee~~].

(4) The Governor may appoint eight (8) private members of the board to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, four (4) may continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the Governor may designate; at the expiration of said original terms and for all succeeding terms, the Governor may appoint a successor to the board for a term of four (4) years in each case. Of the initial eight (8) private members of the board appointed by the Governor, one (1) may be an officer from a commercial lending institution, one (1) may be an officer from a farm credit association, one (1) may be an agricultural economist, one (1) may be a tobacco farmer, one (1) may be a cash grain farmer, one (1) may be a livestock farmer, one (1) may be a dairy farmer, and one (1) may be from the equine industry. After July 13, 1990, the Governor may appoint a horticultural farmer as an additional private member of the board for an initial four (4) year term.

(5) Upon the expiration of the initial terms of the private members of the board, the Governor may appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the Governor may appoint a successor to hold office during the remainder of the term.

(6) The board of directors shall annually elect one (1) of its members as chairman and one (1) of its members as vice chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable[~~, including, but not limited to, an executive director, secretary, and legal counsel, and shall fix the compensation therefor~~].

(7) The ***partnership*** [~~executive director~~] shall administer, manage, and direct the affairs and business of the corporation[~~, subject to the policies, control and direction of the board~~]. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(8) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(9) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least seven (7) directors or by the board's executive committee.

(10) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50) for attendance at each meeting of the board or executive committee.

Section 94. KRS 247.962 is amended to read as follows:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each such report shall set forth a complete operating financial statement relating to the corporation during the year. The persons performing such audits shall furnish copies of the audit to the ***board of the partnership*** [~~secretary, Finance and Administration Cabinet,~~] and the executive director of the Division of Investment and Debt Management, where they shall be placed on file and made available for inspection by the general public.

Section 95. KRS 151.040 is amended to read as follows:

The Kentucky Geological Survey shall report periodically on its findings to the Governor and General Assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the ***Kentucky Economic Development Partnership*** [~~Department of Existing Business and Industry~~] and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the survey. The survey may issue reports, maps, and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

Section 96. KRS 151.116 is amended to read as follows:

The cabinet shall promulgate regulations to carry out the program and shall consult with the ***Kentucky Economic Development Partnership*** [~~Economic Development Cabinet~~] in developing those regulations. The regulations shall set out the details which are to be included in the water supply plans, the procedure for counties and their municipalities and public water systems to apply for financial assistance to pay for the plans, and the criteria and process by which the cabinet will approve plans. The cabinet shall assemble all information in a uniform data base available to all agencies and concerned entities.

Section 97. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, [~~the Cabinet for Economic Development,~~] the Public Protection and Regulation Cabinet, the Cabinet for Human Resources, the Finance and Administration Cabinet, the Corrections Cabinet, the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the secretary of the Governor's Executive Cabinet, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform such other duties as the Governor may require of them.

(3) The cabinet shall consider such matters involving policies and procedures as the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 98. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments), and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, provided, however, in the case of the Personnel Board ***and the Kentucky Economic Development Partnership as created in Section 3 of this Act***, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

    (a) Secretary of State.

    (b) Board of Elections.

4. Department of Law.

    (a) Attorney General.

5. Department of the Treasury.

    (a) Treasurer.

6. Department of Agriculture.

    (a) Commissioner of Agriculture.

    (b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

    (a) Department of State Police.

    (b) Department of Criminal Justice Training.

    (c) Office of Administration.

2. Education and Humanities Cabinet:
    - (a) Department of Education.
        - (1) State Board for Elementary and Secondary Education.
        - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Educational Television.
    - (d) Kentucky Historical Society.
    - (e) Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
    - (a) Environmental Quality Commission.
    - (b) Kentucky Nature Preserves Commission.
    - (c) Department for Environmental Protection.
    - (d) Department for Natural Resources.
    - (e) Department for Surface Mining Reclamation and Enfocement.
    - (f) Department of Law.
    - (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
    - (a) Department of Highways.
    - (b) Department of Vehicle Regulation.
    - (c) Department of Administrative Services.
    - (d) Department of Fiscal Management.
    - (e) Department of Rural and Municipal Aid.
    - (f) Office of Aeronautics.
    - (g) Office of General Counsel.
    - (h) Office of Public Relations.
    - (i) Office of Personnel Management.
    - (j) Office of Minority Affairs.
5. [~~Cabinet for Economic Development:~~
    - ~~(a) Department for Existing Business and Industry.~~
    - ~~(b) Department of the Arts.~~
    - ~~(c) Tobacco Research Board.~~
    - ~~(d) Kentucky Development Finance Authority.~~
    - ~~(e) Office of Business and Technology.~~

~~(f) Office of Industrial Development.~~

~~6.~~] Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

6.[~~7.~~] Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

7.[~~8.~~] Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

8.[~~9.~~] Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

9.[~~10.~~] Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

10.[~~11.~~] Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

11.[~~12.~~] Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

12.[~~13.~~] Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

IV. Other entities:

1. The Kentucky Economic Development Partnership.

Section 99. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) [~~Cabinet for Economic Development.~~

~~(6)~~] Public Protection and Regulation Cabinet.

(6)[~~(7)~~] Cabinet for Human Resources.

(7)[~~(8)~~] Finance and Administration Cabinet.

(8)[~~(9)~~] Corrections Cabinet.

(9)[~~(10)~~] Tourism Cabinet.

(10[)~~(11)~~] Revenue Cabinet.

(11)[~~(12)~~] Labor Cabinet.

Section 100. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky ***Economic*** Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim

financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one time, the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285 inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement or other financing agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection.

(2) Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county" and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky ***Economic*** Development Finance Authority, any air board and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 101. KRS 103.245 is amended to read as follows:

(1) For purposes of the exercise of the power of eminent domain, "building" or "industrial building" shall be deemed to include only the following: coal conversion facilities, hospitals, primary medical centers, health care clinics, convention centers, or any industrial building as defined in KRS 103.200, which is to be located in a blighted area as defined in KRS 99.010(1)(a), or any of these things, to be rented or leased to a domestic or foreign corporation by the Kentucky ***Economic*** Development Finance Authority, the city or the county by which it is acquired.

(2) An industrial building within the meaning of subsection (1) of this section may be acquired by a city or a county by purchase, gift, or condemnation. Whenever a city or a county shall determine that land or other property, right of way, or easement over or through any property is needed by such city or county, as the case may be, to accomplish the purposes of KRS 103.210 to 103.285, inclusive, it may by ordinance or resolution authorize the purchase or condemnation, in the name of such city or county, of said land or other property, or right of way or easement necessary for such purposes, and may proceed to condemn and acquire such property in the manner set forth in the Eminent Domain Act of Kentucky. All property, rights of way and easements already held by its owner or lessee for industrial development shall be exempt from condemnation under this section.

SECTION 102. KRS 152.080 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***of Existing Business and Industry***, as it deems necessary and advisable, is authorized to:

(1) Consult with agencies of the state, federal and local government in order to coordinate development programs and plans and to articulate agriculture, industry, and commerce in the light of the needs of particular localities;

(2) Make studies of land utilization so as to determine areas suitable for industrial and commercial development;

(3) Make studies and projections and publish information relating to the economic development of the Commonwealth and make appropriate recommendations to the ***board of the partnership*** [~~Governor~~] and the General Assembly;

(4) Establish and maintain development offices in out-of-state centers of industrial and commercial management;

(5) Place advertising in appropriate media promoting Kentucky's resources and locational advantages for industrial and commercial enterprises.

Section 103. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky and by the rules of the Senate, the duties of the Lieutenant Governor shall be as follows:

(a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;

(b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;

(c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;

(d) To serve as vice chairman of the County Debt Commission as provided in KRS 66.300;

(e) To appoint three (3) members of the Board of Ethics of the Kentucky General Assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;

(g) [~~To serve as a member of the Kentucky Port and River Development Authority pursuant to KRS 154.320;~~

~~(h)~~] To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030;

(h)[~~(i)~~] To serve as a member of the Appalachian Development Council as provided in KRS 154.600;

(i)[~~(j)~~] To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

1. The Southern Growth Policies Board as prescribed by KRS 147.585;
2. The Breaks Interstate Park Commission as provided in KRS 148.225;
3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 104. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in ***subsection (2) of Section 29 of this Act*** [~~KRS 152.282(2)~~] shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

Section 105. KRS 247.970 is amended to read as follows:

To the extent the provisions of KRS 247.940 to 247.978 delegate to the corporation powers concurrently now held by other governmental agencies, including, but not being limited to, the provisions of KRS 103.200 through 103.285 and KRS 154.010 through 154.170, ***as those statutes read at the time of the enactment of this section,*** the provisions hereof shall be regarded as supplemental and not in derogation of any powers now existing.

Section 106. KRS 141.066 is amended to read as follows:

(1) Individuals whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and ***Section 50 of this Act*** [~~155.440~~].

(2) For a husband and wife living together, whether filing jointly or separately, the "low income" tax credit shall be computed on the basis of their combined adjusted gross income and shall be deductible from their combined tax liability.

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

Section 107. The board of the Kentucky Economic Development Partnership shall develop and prepare for submission to the 1994 Regular Session of the General Assembly a fiscal management and procurement program which shall facilitate the world-class operations of the partnership.

Section 108. (1) As of the effective date of this Act, all existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, real property and personal property assigned to these programs, within the Cabinet for Economic Development including, but not limited to, the following, are hereby transferred to and shall be within the authority and control of the Kentucky Economic Development Partnership:

(a) Office of the Secretary;

(b) Special Projects Branch;

(c) Office of General Counsel;

(d) Comprehensive Advertising Program;

(e) The New York Office;

(f) Communications Services;

(g) Management and Operations;

(h) Kentucky Rural Economic Development Authority;

(i) Office of Industrial Development, including Industrial Marketing Branch;

(j) Office of International Marketing, including Export Promotion Section, Japan Office, and European Office;

(k) Bluegrass State Skills Corporation;

(l) Kentucky Development Finance Authority;

(m) Department for Existing Business and Industry; including the following:

1. Kentucky Port and River Development Commission;

2. Kentucky Waterway Marina Development Commission;

3. Enterprise Zone Programs;

4. Information Clearing House;

5. Kentucky Recycling Brokerage Authority;

6. Small Business Division, including the Kentucky Procurement Assistance Branch;

7. Minority Business Division;

8. Existing Industries Division; and

9. Research and Planning Division, including Library, Map Sales Section, General Research Branch, Community Brochure Branch, and Site and Building Evaluation Branch;

(n) Office of Business and Technology; and

(o) Office of Administrative Services, including:

1. Information Systems Management;

2. Personnel and Payroll Services; and

3. Fiscal Management Branch.

(2) Any remaining administrative, budgetary, or oversight authority or functions of the Cabinet for Economic Development with respect to the Tobacco Research Board and the Kentucky Geological Survey are transferred to the University of Kentucky.

Section 109. As of the effective date of this Act, the following programs, functions and funds, their duties and responsibilities, funds, obligations, personnel, records, real property and personal property assigned to these programs are transferred to and shall be in the authority and control of the Kentucky Economic Development Partnership:

(1) The economic development portion of the Community Development Block Grant Program of Title I of the Housing and Community Development Act of 1974 as amended and all related programs and activities currently within the Division of Community Programs, Department of Local Government; and

(2) The Division of Marketing Development currently within the Office of Market Services, Department of Agriculture.

Section 110. As of the effective date of this Act, the following programs, responsibilities, functions, real property, funds, personnel, records and obligations shall be transferred to the Kentucky Economic Development Partnership for administration and shall be in the authority and control of the Kentucky Economic Development Partnership:

(1) The Kentucky Infrastructure Authority as created and established in KRS 224A.030 and currently administered by the Finance and Administration Cabinet;

(2) The Commonwealth venture fund as established in KRS 155.430 and currently administered by the Finance and Administration Cabinet; and

(3) The Kentucky Agricultural Finance Corporation as established in KRS 247.944, and currently administered by the Finance and Administration Cabinet.

Section 111. The following KRS sections are repealed:

152.010 Definitions.

152.264 Kentucky Rural Economic Development Authority.

152.268 Administrative staff.

152.270 Immunity from personal liability of officers and directors.

152.272 Acceptance and expenditure of funds.

152.274 Conflict of interest prohibited.

152.284 Revenue bonds.

152.286 Revenue bonds not to be deemed debt of Commonwealth — Payment of expenses of authority.

152.288 Security for bonds — Bonds considered a permitted investment.

152.290 Effect of pledge of revenues or assets of authority.

152.292 Authority's money deemed to be trust funds.

152.294 Enforcement of rights by bond holders or trustees.

152.296 Negotiability of bonds and interest coupons.

152.298 Refunding obligations.

154.010 Definitions.

154.020 Kentucky Development Finance Authority — Members — Compensation — Quorum.

154.022 Cooperation between agencies mandated.

154.025 Administration by authority — Executive director.

154.035 Executive committee — Powers.

154.041 Powers of authority.

154.310 Definitions.

154.320 Kentucky Port and River Development Commission — Members — Terms — Officers — Quorum — Compensation — Removal.

154.321 Districts from which members of commission selected.

154.325 Executive director.

154.345 Citation of law.

154.365 Membership — Quorum — Compensation.

154.370 Districts — Appointments.

154.375 Executive director.

154.380 Power to contract.

154.385 Receipt and disbursement of funds.

154.580 Appropriations and finances transferred to Kentucky Development Finance Authority.

247.421 Agricultural Export Authority.

Section 112. Whereas the Commonwealth is confronted with severe economic conditions requiring immediate attention by an effective state economic development response, and whereas the provisions of this Act provide for the restructuring of the Commonwealth's economic development programs and organizations to meet current and future challenges and opportunities, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **HB 89** is as follows:

Amend printed copy of **HB 89/HCS**, Title, by amending the title to read: "AN ACT relating to economic development and declaring an emergency."

HB 205, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154B.100 is amended to read as follows:

As used in KRS 154B.100 to 154B.150, unless the context otherwise requires:

(1) "Area" or "region" means the geographical area represented by the East Kentucky [~~Economic Development and Jobs Creation~~] Corporation, including that part of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended, except that the counties of Clark, Estill, Garrard, Lincoln, Madison and Powell shall not be included as part of the "area" or "region," as defined herein, for the purposes of KRS 154B.100 to 154B.150;

(2) [~~"Articles of agreement" means the terms as specified in the intergovernmental agreement between the corporation and each participating local government made pursuant to KRS 154B.100 to 154B.150;~~

~~(3)~~] "Board" means the board of directors of the corporation;

(3)[~~(4)~~] "Bonds" or "notes" means revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes or other obligations issued by the corporation under the authority of KRS 154B.100 to 154B.150;

(4)[~~(5)~~] "Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties, and responsibilities as provided in KRS 154B.112, and as may be otherwise provided by the board;

(5)[~~(6)~~] "Commonwealth" means the Commonwealth of Kentucky;

(6)[~~(7)~~] "Corporation" means the East Kentucky [~~Economic Development and Jobs Creation~~] Corporation;

(7)[~~(8)~~] "Executive director" means the chief administrator of the corporation having responsibility for its day-to-day operations, and possessing all duties, responsibilities and authorities as specified by the board or executive committee;

(8)[~~(9)~~] "Fund" means the East Kentucky economic development fund as provided by KRS 154B.116;

(9)[~~(10)~~] "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and

(10)[~~(11)~~] "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed, or otherwise assisted by the corporation pursuant to KRS 154B.100 to 154B.150.

Section 2. KRS 154B.102 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the East Kentucky [~~Economic Development and Jobs Creation~~] Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870.

(2) The corporation is created and established to exercise and to perform those functions and activities as specified in KRS 154B.100 to 154B.150 for the purpose of improving the economic well-being of the people of the region, and otherwise promote and enhance the health and welfare of the people of the region by developing or assisting in projects aimed at creating new job opportunities or to assist existing regional industries or businesses in expanding employment opportunities within the region.

(3) ***Beginning on the effective date of this Act, the name of the East Kentucky Economic Development and Jobs Creation Corporation shall be changed to the East Kentucky Corporation. All existing rights and obligations of the corporation under its prior name shall continue in force under its new name*** [~~Upon March~~

~~20, 1990, and until August 1, 1990, the board of directors of the corporation shall consist of twenty-one (21) persons appointed by the Governor of the Commonwealth of Kentucky. These appointments shall be terminated on August 1, 1990, at which time and thereafter the corporation's board of directors shall be comprised as specified in KRS 154B.106.~~

~~(4) The interim board of directors as specified in subsection (3) of this section shall be authorized to elect a temporary chairman, vice chairman, secretary, and treasurer, to prepare bylaws, to prepare and negotiate articles of agreement regarding the participation of local governments in the corporation, including the specification of the amount of financial support to be provided by each participating local government, as provided in KRS 154B.104, and to conduct any business necessary to the establishment and organization of the corporation; however, the interim board shall not be authorized to issue bonds or to initiate any project which shall obligate current or future funds and resources of the corporation~~].

Section 3. KRS 154B.104 is amended to read as follows:

(1) Effective August 1, 1990, any member county and city as specified in subsection (2) of this section shall be provided membership on the board of directors of the corporation pursuant to KRS 154B.106.

(2) Any county within the region and any city of the largest class within any county within the region shall become a member of the corporation when the local governing body of the county or of the city ***approves by resolution the county's or city's participation in the corporation*** [~~executes by official action an intergovernmental agreement as prescribed in KRS 65.240(2), and as prepared by the interim board of directors.~~

~~(3) KRS 65.260 and 65.300 shall not be applicable to any intergovernmental agreement made pursuant to subsection (2) of this section; however, before an agreement made pursuant to this section shall become effective, it shall be filed in the manner as prescribed in KRS 65.290.~~

~~(4) The board shall be authorized to amend as necessary the articles of agreement, and to negotiate the execution of the amendments with participating local governments~~].

Section 4. KRS 154B.106 is amended to read as follows:

(1) The corporation shall be governed by a board of directors whose membership shall consist of the following:

(a) The county judge/executive, or his designee, of each county participating in the corporation pursuant to KRS 154B.104;

(b) The mayor, or his designee, of each city participating in the corporation pursuant to KRS 154B.104;

(c) Three (3) persons who shall be appointed by the Governor to represent areawide public or private sector interests and concerns;

(d) One (1) member for each area development district containing any county located within the region, who shall be appointed by the board of directors of the area development districts; and

(e) Such additional at-large citizen members as may be determined by the board[~~, and specified in the bylaws and articles of agreement of the corporation~~]; however, total at-large citizen membership on the board shall not exceed the total of those board members as provided in paragraphs (a), (b), (c), and (d) of this subsection.

(2) The terms of office on the board of each mayor and county judge/executive shall be the same as their official tenure in office; the term of office for those persons appointed by the Governor shall be the same as the Governor's tenure in office; and the term of office for all other members appointed to the board pursuant to paragraph (d) ***and (e)*** of subsection (1) of this section shall be four (4) years, but the term of office of all members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(3) When a vacancy occurs in a seat held by a gubernatorial appointee, the Governor shall fill the vacancy within sixty (60) days from the date the vacancy first occurs. If the Governor fails to act within the specified time, then the chairman of the board may fill the vacancy upon confirmation by a majority of the members of the executive committee.

(4) When a vacancy occurs on the board in a seat held by a representative of an area development district, the appointing authority shall fill the vacancy within sixty (60) days from the date the vacancy first occurs. If the appointing authority fails to act within the specified time, the chairman of the board may fill the vacancy upon confirmation by a majority of the members of the executive committee.

(5) When a vacancy occurs on the board in a seat held by an at-large citizen member, then the chairman of the board may fill the vacancy upon confirmation by a majority of the executive committee. If the chairman does not act within sixty (60) days from the date the vacancy first occurs then the executive committee shall fill the vacancy.

(6) [~~Vacancies of all elected local officials seated on the board shall be filled as prescribed in the articles of agreement as provided in KRS 154B.104.~~

~~(7)~~] Vacancies on the board or the executive committee shall not be counted for purposes of a quorum.

(7)[~~(8)~~] All powers and authorities granted to the corporation under the provisions of KRS 154B.100 to 154B.150 shall be vested in the board of directors, except as otherwise stated in KRS 154B.100 to 154B.150.

Section 5. KRS 154B.108 is amended to read as follows:

(1) Any member of the board as provided in subsection (1)(c), (d), and (e) of KRS 154B.106 may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, misfeasance, or conflict of interest. When a member is removed, the reasons for removal shall be set forth in writing and shall be read at the next meeting of the board or executive committee, whichever occurs first.

(2) Meetings of the board shall be open to the general public, and shall be held at least once annually, and called in the manner as specified in the corporation's bylaws. Special meetings of the board may be held on call of the chairman, who shall give written notice to all members at least seven (7) days prior to the meeting, and shall contain the date, time and place, and the subjects that shall be discussed.

(3) The board shall adopt bylaws[~~, articles of agreement,~~] and rules pertaining to operation of the corporation and shall keep minutes and records of all proceedings which shall be filed in the offices of the corporation.

(4) A simple majority of the total membership of the board shall constitute a quorum. Any member who has a direct personal or pecuniary interest in the outcome of any question before the board shall disclose the nature of the interest, and shall disqualify himself from voting on the question, and he shall not be counted for the purpose of a quorum. A simple majority of all members present where there is a properly constituted quorum shall be necessary to transact any official business, except that a vote of a simple majority of the total membership shall be necessary to adopt or amend the corporation's bylaws [~~or articles of agreement~~]. A quorum need not be present to adjourn a meeting of the board.

(5) The board shall annually elect a chairman and any other officer which it deems necessary and which are specified in the corporation's bylaws. Each officer shall be eligible for reelection at the expiration of his term. All officers of the board shall serve on the board's executive committee as specified in KRS 154B.112.

Section 6. KRS 154B.110 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154B.100 to 154B.150, including, but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws[~~, prepare articles of agreement,~~] and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154B.100 to 154B.150;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154B.116;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services at any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by KRS 154B.100 to 154B.150.

Section 7. KRS 154B.112 is amended to read as follows:

(1) When the board of directors is not meeting, or as otherwise provided by KRS 154B.100 to 154B.150, all powers and authorities granted to the corporation pursuant to KRS 154B.100 to 154B.150 shall be vested in the corporation's executive committee, which shall be composed of the following members:

(a) The chairman of the board of directors and all other officers of the board as the board may specify in the corporation's bylaws;

(b) The three (3) gubernatorial appointees to the board as specified in KRS 154B.106;

(c) Seven (7) locally elected officials represented on the board, four (4) of whom shall be county judges/executive and three (3) of whom shall be mayors;

(d) Two (2) members who shall represent participating area development districts; and

(e) Seven (7) at-large members on the board, which may include, but not be limited to, persons representing banking and business, ***industries***, [~~industrial,~~] education, labor, private industry councils, chambers of commerce, ***and*** industrial development authorities[~~, and the state legislature~~]; however, no more than two (2) at-large members shall be elected officials.

(2) The executive committee shall be authorized to hire and fire the corporation's executive director and to set his salary and benefits, and to authorize the hiring of other employees of the corporation and to set their respective salaries and benefits.

(3) No funds of the corporation shall be obligated or expended until their obligation and expenditure has been authorized by the executive committee.

(4) The executive committee shall meet at least once each quarter and at such other times as the chairman may call. All meetings of the executive committee shall be open to the general public and a written record of all proceedings and transactions shall be maintained and available for public inspection. A simple majority of the total membership of the executive committee shall constitute a quorum. It shall be necessary for a

properly constituted quorum to be present before transacting any official business, except that a quorum need not be present for adjournment.

(5) A simple majority of the total membership of the executive committee, excluding any vacancy, shall be required before the committee may borrow funds to make loans, enter into contracts or agreements, issue and sell bonds on behalf of the corporation, hire an executive director or any other persons as consultants or employees, and obligate, transfer, or otherwise encumber or dispose of the corporation's funds or assets.

(6) The executive committee shall not be authorized to amend the bylaws[~~, articles of agreement,~~] or other rules adopted by the board.

(7) When any member of the executive committee is absent without excuse from three (3) or more consecutive committee meetings, he shall be automatically removed from the committee, and his position on the committee shall be declared vacant and shall be filled in the manner as provided in KRS 154B.100 to 154B.150 for the membership classification which the vacancy represents.

(8) The day-to-day administration and management of the corporation shall be invested in the corporation's executive director, who shall have powers, duties, and authorities as may be granted to him by the board and the executive committee.

(9) Members of the executive committee may be reimbursed for their actual travel expenses while on official corporation business in accordance with the methods for reimbursement as established by the board.

The Committee on Education reported **HB 183**, with Committee Amendment attached thereto, **HB 196**, with Committee Amendment attached thereto, **HB 244** and **HB 280**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 183, AN ACT relating to school budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget ***in formats*** [~~on forms~~] prescribed and furnished by the State Board for Elementary and Secondary Education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Revenue Cabinet of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection (12) of this section and KRS 157.440. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (12) of this section and KRS 157.440.

(b) ***If*** [~~In the event that~~] an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (12) of this section and KRS 157.440, until the district board of education has complied with the provisions of subsection (10) of this section.

(4) The chief state school officer shall certify the following to each district board of education, by June 30 of each year:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data, the Revenue Cabinet shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the State Board for Elementary and Secondary Education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the State Board for Elementary and Secondary Education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.090 with the written approval of the State Board for Elementary and Secondary Education; or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of a school district by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the State Board for Elementary and Secondary Education; or

(c) Fails to comply with the law.

The State Board for Elementary and Secondary Education shall state the reason for disapproval and the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the State Board for Elementary and Secondary Education for final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the State Board for Elementary and Secondary Education.

(9) ***(a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 15 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of five percent (5%) of the total budget.***

(b) Each district board of education shall submit to the State Board for Elementary and Secondary Education no later than September 15, a close estimate or working budget which shall conform to the administrative regulations prescribed by the State Board for Elementary and Secondary Education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) Except as provided in subsection (12) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of subsection (2) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold

a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year, and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates, and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection (12) of this section and KRS 157.440, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection (12) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county or urban county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(12) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate

of thirty cents ($0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with subsection (12)(a) of this section, its members shall be subject to removal from office for willfull neglect of duty pursuant to KRS 156,132.

The Committee Amendment No. 1 to **HB 183** is as follows:

Amend printed copy of **HB 183** on page 6, line 4 delete "***of the total budget***" and insert the following in lieu thereof:

"***for district above-line budgets of less than ten million dollars ($10,000,000); four percent (4%) for above-line budgets equal to or greater than ten million dollars ($10,000,000) and less than thirty-five million dollars ($35,000,000); three and one-half percent (3.5%) for above-line budgets equal to or greater than thirty-five million dollars ($35,000,000) and less than fifty million dollars ($50,000,000); and two and one-half percent (2.5%) for above-line budgets equal to or greater than fifty million dollars ($50,000,000)***"

HB 196, AN ACT relating to compulsory attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.990 is amended to read as follows:

(1) Any parent, guardian, or custodian who willfully fails to comply with the requirements of KRS 159.010 to 159.170 shall be fined ***one hundred*** [~~not more than ten~~] dollars ***($100)*** [~~($10)~~] for the first offense, and ***two hundred fifty*** [~~not more than twenty~~] dollars ***($250)*** [~~($20)~~] for ***the second offense***. Each subsequent offense ***shall be classified as a Class B misdemeanor***. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.

(2) Any principal, teacher, director of pupil personnel, assistant director of pupil personnel, or other school officer who willfully fails to comply with the provisions of KRS 159.010 to 159.250, or of KRS 160.330 shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50). Upon conviction under this subsection, a director of pupil personnel or assistant director of pupil personnel shall be removed from office and have his certificate revoked, and a principal, teacher, or other school officer may have his certificate revoked.

(3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200), or imprisoned in the county jail for not more than sixty (60) days, or both.

(4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars ($50) and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer, he shall be removed from office; and if he is a director of pupil personnel, his certificate shall be revoked.

(5) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

The Committee Amendment No. 1 to **HB 196** is as follows:

Amend printed copy of **HB 196** on page 1, line 19 after "be" insert "***guilty of a Class B misdemeanor***";

On page 1, lines 19 and 20 place an opening bracket before "fined" and place a closing bracket after "($50)" and strikethrough all language in between;

On page 2, line 9 after "be" insert "***guilty of a Class B misdemeanor***";

On page 2, line 9 place an opening bracket before "fined" and on line 12 place a closing bracket after "both" and strikethrough all language in between;

On page 2, line 14 after "be" insert "***guilty of a Class B misdemeanor***"; and

On page 2, line 14 place an opening bracket before "liable" and on line 16 place a closing bracket after "swearing" and strikethrough all language in between.

HB 244, AN ACT relating to requirements for college enrollment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.575 is amended to read as follows:

(1) As used in this section:

(a) "Hospital indigent care assurance program" (HICAP) means the medicaid hospital indigent care assessment and payments program administered by the Department for Medicaid Services in accordance with this section.

(b) "Department" means the Department for Medicaid Services; and

(c) "Fund" means the medicaid assessment revolving trust fund (MART) which consists of money collected from hospitals and other participating providers; or the medicaid assessment improvement trust (MAIT) fund which consists of money transferred from the MART fund in accordance with the provisions of this section. Money paid into the MART fund shall be used first to meet obligations to the providers from which the funds are collected and to maintain contingency reserves as necessary, with any remainder paid into the MAIT fund except for funds reserved for administrative costs. The MAIT fund shall only be used or held in reserve to meet contingencies of the medicaid program which result from unanticipated federal mandates, federal disallowances, or program growth based upon the enacted budget or state law. Both the MART and MAIT funds are to be matched with funds from the federal medicaid program in accordance with the provisions of this section, and shall be exempt from any state budget reduction acts. All funds generated pursuant to KRS 205.575 to 205.578 shall be appropriated to the Department for Medicaid Services and shall be supplementary only and shall not be used to replace funds appropriated to the medicaid program by the General Assembly. All moneys paid by hospitals under HICAP prior to March 4, 1991, were intended to be and shall be considered a tax assessment which was appropriated to the Department for Medicaid Services;

(d) "Hospital" means an acute care hospital, excluding licensed inpatient psychiatric facilities licensed under KRS Chapter 216B;

(e) "Medical assistance program" means the Kentucky medicaid program as described in KRS 205.510 to KRS 205.590 and state regulations pertaining thereto and the federal medicaid program as defined in Title XIX of the Social Security Act and federal regulations pertaining thereto; and

(f) "Assessment" means a tax assessment levied on hospitals pursuant to this section.

(2) The commissioner of medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not be limited to, the provisions of this section.

(3) The requirements of this section shall apply only as long as federal funds under the medical assistance program are provided and the federal funds are at least equal to the amount of hospital assessments.

(4) The secretary for human resources shall promulgate administrative regulations necessary for the implementation of this section.

(5) Each year the department shall:

(a) Determine each hospital's total costs for services to patients as reported by the hospital to the department in the hospital's most recent medicaid cost report; and

(b) Multiply the hospital's total costs for services to patients by one-half percent (0.5%) up to five percent (5%) as determined feasible by the department. The hospital's initial assessment shall be for the calendar quarter ending March 31, 1991. Each hospital's assessment shall be subject to adjustment under subsection (9) of this section and which shall be deposited in the MART fund.

(6) (a) A hold harmless amount shall be held in reserve from the MART fund which is sufficient to assure that each hospital receives as payment from the fund an amount not less than the amount of that hospital's assessment plus one hundred thousand dollars ($100,000). Up to two percent (2%) of the assessments shall be reserved for necessary administrative expenditures of the department, such amount to be placed in a trust and agency account of the department established for this purpose. The department may maintain within the MART fund an undistributed contingency reserve of up to one million dollars ($1,000,000).

(b) Hospitals shall be entitled to at least the following rates of return: for the amount generated by the first one percent (1%) of assessment, the assessment and any federal match on that portion of the assessment based on medicaid occupancy; for the amount generated by the second and third percents of assessment, an amount which for a facility is equal to the assessment and any federal match on that portion of the assessment based on medicaid occupancy but not more than three hundred percent (300%), in total, of that portion of the assessment; and for the amount generated by the fourth and fifth percents of assessment, an amount which for a facility is equal to the assessment and any federal match on that portion of the assessment based on medicaid occupancy but not more than two hundred percent (200%), in total, of that portion of the assessment. The commissioner of medicaid services shall specify by regulation amounts to be paid to hospital providers if payment amounts are to exceed the maximum specified in this section. The minimum rates of return may be adjusted by administrative regulation as necessary, contingent on changes in the federal matching ratio. Assessment amounts in the MART fund not paid to hospitals, or reserved as contingency or administrative funds shall be transferred to the MAIT fund.

(7) (a) The department shall determine the percentage that each hospital's allowable medicaid days constitute of the sum of total allowable medicaid hospital days. The result shall be the indigent care factor for the hospital. As used in this section, days means the hospital's inpatient days covered by the medical assistance program for eligible recipients as reported to the department.

(b) The department shall multiply the indigent care factor for each hospital by the hospital assessment amount in the MART fund, taking into consideration the provisions of subsection (6) of this section, plus the federal matching dollars. The resulting product, subject to adjustment under subsection (9) of this section, shall be the amount that each hospital is to receive under the program.

(c) If any hospital's assessment exceeds the amount it is determined eligible to receive under subsection (7)(b), the department shall pay to the hospital from the hold harmless reserve specified in subsection (6) of this section an amount sufficient to bring the hospital's total payment under the program up to the assessment amount.

(8) Each hospital shall be notified in writing by the department of the results of determinations made pursuant to subsections (5)(b) and (7)(b) of this section. If no hospital submits a request for reconsideration under subsection (9) of this section, the determinations shall be considered final. Requests for reconsideration shall be subject to the provisions of subsection (9) of this section.

(9) Any hospital may submit a written request to the department for reconsideration of the determinations within twenty (20) days of notice of the determinations. The request shall be accompanied by written materials setting forth the basis for reconsideration. If one (1) or more hospitals submit a request, the department shall hold a public hearing within twenty (20) days from the last date on which reconsideration requests may be received. The department shall mail written notice of the date, time and place of the hearing to every hospital at least ten (10) days before the date of the hearing. On the basis of the evidence submitted to the department or presented at the public hearing, the department shall reconsider and may adjust the determinations.

(10) Within twenty (20) days of the public hearing, the department shall provide notice in writing to each hospital of the final determination of the amount it is required to pay and is eligible to receive after the adjustments made in accordance with subsection (9) of this section. Any hospital may appeal the decision of the department as to the amount it is required to pay or is eligible to receive to Franklin Circuit Court.

(11) (a) Each hospital shall submit its assessment to the department in equal quarterly installments according to a schedule adopted by administrative regulation. Variations in payment schedules shall be permitted as deemed necessary by the commissioner of medicaid services according to criteria set forth in administrative regulations.

(b) Any hospital that fails to make payments to the department on or before the schedule specified in this section or under any schedule for delayed payments established by the commissioner of medicaid services shall be fined not less than twenty thousand dollars ($20,000). The commissioner of medicaid services shall waive the penalties provided for in this subsection for good cause shown by the hospital as determined in accordance with criteria set forth in administrative regulations.

(c) The MART fund shall be established in the State Treasury and all payments from hospitals under this section, excluding the administrative amount provided for in subsection (6) of this section, shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund and transferred to the MAIT fund as appropriate. The department shall maintain records that show the amount of money in the fund at any time that has been paid by each hospital. All moneys credited to the fund shall be used to make payments to hospitals or transferred to the MAIT fund after commitments have been met. A hospital shall not have its most recent non-disproportionate share payment rate reduced as a result of this program.

(12) The department shall make quarterly disbursements from the fund to each hospital within thirty (30) days from the time of the hospital assessment payment. All disbursements to hospitals shall be conditional on:

(a) Expiration of the time of judicial appeals or on court determinations; and

(b) The availability of sufficient moneys in the fund.

(13) The department shall conduct annual audits of the hospital indigent care assurance program to determine that amounts received from or paid to hospitals were correct. If an audit conducted by the department of the amount of payments made and received by hospitals identified amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should have not received but did receive, or should have received but did not receive, the department shall:

(a) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received; or

(b) Take action to recover from a hospital any amounts the audit reveals it should have paid but did not pay or that it should not have received but did receive.

Payments made under subsection (13)(a) of this section shall be made from the fund. Amounts recovered under subsection (13)(b) of this section, less the federal matching share or the state administrative share as specified in subsection (6) of this section, as applicable, shall be deposited to the credit of the fund.

(14) Hospitals participating in the provisions of this section shall:

(a) Display prominently signs which read as follows: "This hospital will accept patients regardless of race, creed, ethnic background or ability to pay";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the medicaid program; ***and***

(d) [~~Accept as payment in full benefits of student health insurance described in KRS 304.18-115 where such payment is at least equal to the hospital's medicaid rate; and~~

~~(e)~~] Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for medicaid recipients.

(15) By September 1, 1991, the Department for Medicaid Services shall determine eligibility under HICAP for indigent individuals and families with income up to one hundred percent (100%) of the federal poverty level; such individuals shall be eligible for inpatient hospital benefits equal to those provided medicaid recipients under the medicaid program, subject to approval by the Federal Health Care Financing Administration, without responsibility for payment accruing to the patient or the medicaid program. However, hospitals may bill any eligible third-party payor for payment of such services.

(16) By February 1, 1992, the department shall provide the General Assembly with a report on the feasibility of including indigent patient days, including additional days of coverage for medicaid recipients, in the determination of the payments under HICAP or other ways of compensating hospitals with a disproportionate share of indigent care as defined in this section.

Section 2. The following KRS section is repealed:

304.18-115 Student health insurance program.

HB 280, AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A state Council for Community Education shall be established for the purpose of advising the commissioner of education and the Department of Education on issues relating to community education programs and making recommendations for the funding of local community education programs.

(2) The council shall have a membership of fifteen (15) persons, appointed by the commissioner of education. Membership may include, but not be limited to, representatives of the following groups:

(a) Local school district administrators;

(b) Local government;

(c) Parent organizations;

(d) Teachers;

(e) State legislators;

(f) Community-based organizations;

(g) School boards;

(h) Civic organizations;

(i) Higher education; and

(j) The Kentucky Community Education Association.

(3) The commissioner of education or his designee shall convene the first meeting of the council for the purpose of establishing the bylaws of the council and electing officers to include: chairman, vice chairman, and secretary.

Section 2. KRS 160.156 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The State Board for Elementary and Secondary Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to:

(a) Support staff to plan and manage programs and services for community education; and

(b) Support programs that are targeted to the greatest educational needs in the community.

(3) ***The grant program shall be funded by the State Board for Elementary and Secondary Education on a per capita basis and at a level of one dollar ($1) per capita. The population on which this funding is based shall be the population of the county or counties served by the respective districts, as determined by the most recent, available census data.*** Districts shall provide a twenty-five ***cents ($0.25) per capita*** [~~percent (25%)~~] cash match in order to receive state community education funding.

Section 3. KRS 160.157 is amended to read as follows:

(1) [~~Subject to the availability of funds,~~] A public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the State Board for Elementary and Secondary Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting ***locally determined*** [~~the~~] needs [~~of citizens~~];

(c) Establishes ***a council with the power to make district-wide decisions of policy*** [~~an advisory council, appointed by the board of education,~~] to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one (1) full-time community education director;

(2) Two (2) or more school districts may combine for purposes of qualifying ***for state funds. In counties that include more than one (1) school district, the local districts shall determine which district will be the one (1) of record for purposes of receiving state community education funds, maintaining records, and filing reports*** [~~as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the Department of Education~~].

(3) ***Funds*** [~~Funded positions~~] shall be awarded to ***qualifying*** [~~qualified~~] districts ***on the basis of county population, except that the minimum allocation for a county shall be set at fifteen thousand dollars ($15,000)*** [~~in the ratio of district population to state population~~].

(4) Each ***county*** [~~community school~~] receiving state funds for a community education program ***shall*** [~~must~~] submit an annual report to the State Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of ***state funding*** [~~the community school designation~~].

The Committee Substitute to **HB 280** is as follows:

HB 280, AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A state Council for Community Education shall be established for the purpose of advising the commissioner of education and the Department of Education on issues relating to community education programs and making recommendations for the funding of local community education programs.

(2) The council shall have a membership of fifteen (15) persons, appointed by the Governor. Membership may include, but not be limited to, representatives of the following groups:

(a) Local school district administrators;

(b) Local government;

(c) Parent organizations;

(d) Teachers;

(e) Community-based organizations;

(f) School boards;

(g) Civic organizations;

(h) Higher education; and

(i) The Kentucky Community Education Association.

(3) The commissioner of education or his designee shall convene the first meeting of the council for the purpose of establishing the bylaws of the council and electing officers to include: chairman, vice chairman, and secretary.

Section 2. KRS 160.156 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The State Board for Elementary and Secondary Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to:

(a) Support staff to plan and manage programs and services for community education; and

(b) Support programs that are targeted to the greatest educational needs in the community.

(3) ***The grant program shall be funded by the State Board for Elementary and Secondary Education on a per capita basis and at a level of one dollar ($1) per capita. The population on which this funding is based shall be the population of the county or counties served by the respective districts, as determined by the most recent, available census data.*** Districts shall provide a twenty-five ***cents ($0.25) per capita*** [~~percent (25%)~~] cash match in order to receive state community education funding.

Section 3. KRS 160.157 is amended to read as follows:

(1) [~~Subject to the availability of funds,~~] A public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the State Board for Elementary and Secondary Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting ***locally determined*** [~~the~~] needs [~~of citizens~~];

(c) Establishes ***a council with the power to make district-wide decisions of policy*** [~~an advisory council, appointed by the board of education,~~] to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one (1) full-time community education director;

(2) Two (2) or more school districts may combine for purposes of qualifying ***for state funds. In counties that include more than one (1) school district, the local districts shall determine which district will be the one (1) of record for purposes of receiving state community education funds, maintaining records, and filing reports*** [~~as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the Department of Education~~].

(3) ***Funds*** [~~Funded positions~~] shall be awarded to ***qualifying*** [~~qualified~~] districts ***on the basis of county population, except that the minimum allocation for a county shall be set at fifteen thousand dollars ($15,000)*** [~~in the ratio of district population to state population~~].

(4) Each ***county*** [~~community school~~] receiving state funds for a community education program ***shall*** [~~must~~] submit an annual report to the State Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of ***state funding*** [~~the community school designation~~].

The Committee on Labor and Industry reported **HB 164** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 164, AN ACT relating to the unemployment insurance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance and dissolution of a group reserve account.

(6) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall, in accordance with administrative regulations established by the secretary, be credited to an employer's reserve account as of the computation date. Voluntary contributions by any new employer subject to KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of October 31 of the current year shall be limited to a voluntary contribution equal or less than the sum of these delinquencies owed on that date.

Floor Amendments (Continued)

Floor Amendment No. 1 to SB 72, by Representative Little:

Amend printed copy of SB 72/GA on page 6, after line 11, by inserting the following:

"Section 3. KRS 281A.200 is amended to read as follows:

(1) Beginning on January 1, 1991, and effective until April 1, 1992, any driver of a commercial vehicle who meets the requirements of subsection (2) of this section, may apply to the circuit clerk of the county in which he resides and upon satisfactory completion of a vision and knowledge test shall qualify to be issued a commercial driver's license.

(2) An applicant for a commercial driver's license shall:

(a) Provide proof that he is a resident of the Commonwealth of Kentucky and currently holds a valid Kentucky operator's license;

(b) Provide proof that he has been regularly employed as a driver of vehicles for the previous two (2) years of the type or class of commercial vehicle for which he seeks a commercial driver's license. Regularly employed shall include any employment time lost due to illness, employment layoff, and other considerations which may have contributed to irregular employment over the last five (5) years.

(c) Have a driving record free of any license suspensions, revocations, or cancellations for the preceding two (2) years;

(d) Have been free of any disqualifying offenses for the prior two (2) years; and

(e) Be twenty-one (21) years of age or older unless the applicant seeks a commercial driver's license with an "I" restriction.

(3) All licenses issued pursuant to this section shall expire in the birth month and year of the applicant's regular operator's license issued pursuant to KRS 186.412. All fees shall be prorated based upon the number of months and years the commercial driver's license is valid.

(4) A commercial driver who operates exclusively in intrastate commerce and who has failed to meet the physical requirements of 49 CFR 391, Subpart E as adopted by administrative regulations of the Transportation Cabinet may apply to the cabinet for a medical waiver until March 31, 1992."; and

On page 6, line 12, by renumbering "Section 3" as "Section 4".

Calendar

HB 21, **HB 22**, **HB 66**, **HB 315**, **SB 4**, **HB 314**, **HB 345**, **HB 357**, **HB 41**, **HB 43**, **HB 98**, **HB 301** and **HB 302** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

SB 31, **SB 32** and **SB 34** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 62**, by Representative Gregory:

Amend printed copy of **HB 62/HCS** on page 3, line 3, delete "***elective officials***" and insert in lieu thereof, "***executive officers***"; and

On page 3, line 8, delete "***elective official***" and insert in lieu thereof, "***executive officer***"; and

On page 3, line 9, after the period and before "***Candidates***" insert, "***The chief executive officer of a city shall mean the mayor and the chief executive officer of a county shall mean the county judge/executive.***"; and

On page 3, line 11, delete "***elective official***" and insert in lieu thereof "***executive officer***"; and

On page 3, line 11, delete "***officials***" and insert in lieu thereof "***officers***"; and

On page 3, line 22, after the period insert "***If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to subsection (1)(a) and (1)(b) of this section, then up to three (3) commissioners shall be appointed from a list of six (6) or more names of persons residing within the jurisdiction of the commission, submitted by the Kentucky Hotel and Motel Association. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.***"; and

On page 3, line 25 after the period, insert "***If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed from a list of three (3) or more names of persons residing within the jurisdiction of the commission, submitted by the Kentucky Restaurant Association. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.***; and

On page 4, line 7, delete "***elective officials***" and insert in lieu thereof "***executive officers***"; and

On page 4, line 8, delete "***government***" and insert in lieu thereof "***governmental***"; and

On page 4, line 13, delete "***elective official***" and insert in lieu thereof "***executive officer***"; and

On page 4, line 16, delete "***elective official***" and insert in lieu thereof "***executive officer***"; and

On page 4, line 17, delete "***elective official***" and insert in lieu thereof "***executive officer***"; and

On page 4, line 18, after the word "***the***" and before the word "***commission***" insert in lieu thereof "***establishment of the***"; and

On page 4, line 26, delete "***elective official***" and insert in lieu thereof "***executive officer***"; and

On page 5, line 1, delete "***officials***" and insert in lieu thereof, "***officers***"; and

On page 5, line 1, after the word "***of***" and before the word "***receipt***" insert the word "***the***"; and

On page 5, line 3, delete the word "***with***" and insert in lieu thereof "***within***"; and

On page 5, line 10, delete "***elective official***" and insert in lieu thereof, "***executive officer***"; and

On page 5, line 11, delete "***officials***" and insert in lieu thereof, "***officers***"; and

On page 6, line 11, after the word "audited" and before the word "by" insert the word "***annually***"; and

On page 6, line 15, delete "***elective***" and insert in lieu thereof "***executive***"; and

On page 6, line 16, delete "***official***" and insert in lieu thereof "***officer***"; and

On page 6, line 16, delete "***officials***" and insert in lieu thereof "***officers***"; and

On page 6, line 23, delete "***created***" and insert in lieu thereof "***established***"; and

On page 7, line 26, delete "***created***" and insert in lieu thereof "***established***".

Floor Amendment No. 1 to the Committee Substitute to **HB 98**, by Representative Lear:

Amend printed copy of **HB 98/HCS** on page 1, between lines 12 and 13, to add the following:

"***(c) Under the influence of illegally used controlled substance which impairs one's driving ability; or***"; and

on page 1, line 13, to delete "***(c)***" and to insert in lieu thereof "***(d)***"; and

on page 1, line 13, following "***other***" to add "***legally used***"; and on page 1, line 14, following "***which***" to add "***he has been warned***"; and

on page 1, line 15, to delete "***(d)***" and to insert in lieu thereof "***(e)***".

Report of Committees (Continued)

The Committee on Rules reported the following Consent Bills have been posted for passage in the Regular Orders of the Day for February 6, 1992: **SB 31, SB 32, SB 34**

The Committee on Rules reported that **HB 41, HB 43, HB 66, HB 98, HB 301, HB 302, HB 314, HB 315, HB 357** and **SB 4** have been posted for passage in the Orders of the Day for February 6, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 21, HB 22**

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 62**, by Representative Strong:

Amend printed copy of **HB 62/HCS** on page 8, line 2, after the word "***ordinance***" and before the word "***that***" insert "***within ninety (90) days after the effective date of this Act,***"; and

On page 8, line 4, after the period, insert "***The local governing body or bodies of the city, cities, county, or counties that establish a commission after the effective date of this Act shall enact an ordinance, upon the establishment of the commission, that provides for the collection of the tax and the enforcement of the tax measure enacted pursuant to this section.***"; and

On page 10, after line 19, insert the following:

"SECTION 4. A NEW SECTION OF KRS 91A.350 to 91A.390 IS CREATED TO READ AS FOLLOWS:

(1) If the members of the local governing body or bodies of the city, cities, county, or counties, that have established a commission by joint or separate action, fail to enact the required ordinance that provides for the collection of the tax and the enforcement of the tax measure enacted, pursuant to KRS 91A.390, the failure of the members of a local governing body or bodies to enact the required ordinance shall be grounds for the automatic removal of the members of the local governing body or bodies that have established the commission.

(2) Failure of the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay the full amount of the tax that is owed by them, pursuant to KRS 91A.390, shall require the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay a fine of five thousand dollars ($5,000) per month, to the local governing body or bodies that established the commission, until the full amount of the tax that is owed to the local governing body or bodies that established the commission is paid in full."

Motions, Petitions and Communications

Representative Palumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Palumbo moved the adoption of the following **HR 71**:

HR 71, A RESOLUTION proclaiming the second week of June as Arson Awareness Week.

WHEREAS, thousands of lives and hundreds of millions of dollars in property are lost each year through arson fires; and

WHEREAS, as a result of these destructive fires, immeasurable losses are caused in employment, production and other activities of economic value; and

WHEREAS, combating the crime of arson is necessary and essential to the safety and economic well-being of the citizens of the Commonwealth; and

WHEREAS, the establishment of Arson Awareness Week should help explain the consequences and prevent the horrors of arson;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body does hereby proclaim the second week of June as Arson Awareness Week.

Section 2. That the House urges all citizens of the Commonwealth to assist in any way possible in the observance of this week to help reduce the loss of life and property resulting from arson fires.

Section 3. That the Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Major W. H. Lilly, Fire and Arson Investigation Unit, Division of Fire and Emergency Services, 183 Georgetown Street, Lexington, Kentucky 40508.

HR 71 was adopted by voice vote.

Representative Palumbo moved that a call of the roll be taken to show co-sponsors of **HR 71**.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Bowling, Brown, Bryant, Butler, Callahan, Castleman, P. Clark, Coleman, Collins, Crupper, Curd, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Crupper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Crupper moved the adoption of the following **HR 66**:

HR 66, A RESOLUTION recognizing and honoring the Kentucky Parents Teachers Organizations.

WHEREAS, the Kentucky Parents Teachers Organizations consist of parents, teachers, students, principals, administrators, and others; and

WHEREAS, their never-ending goals are to unite the forces of home, school, and community in behalf of children and youth; and

WHEREAS, the Kentucky Parents Teachers Organizations work for legislation benefiting Kentucky's children and youth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes and honors the Kentucky Parents Teachers Organizations.

Section 2. That the Clerk of the House transmit a copy of this Resolution to Jean Arrowood, President, Kentucky Parents Teachers Association, Capital Plaza, Frankfort, Kentucky 40601.

HR 66 was adopted by voice vote.

Representative Crupper moved that a call of the roll be taken to show co-sponsors of **HR 66**.

On the roll call the vote was yeas 85—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Casebier, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Jensen, Johnson, Kerr, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Stumbo moved that **HB 396** be reassigned to the Committee on Appropriations and Revenue and that the three day posting requirement be waived. Agreed.

Representative Stumbo moved that **HCR 64** be reassigned to the Committee on Transportation. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 352** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 442, by Representatives Zimmerman, J. Harper, Morris and Gray: AN ACT relating to peace officers.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **HB 232**

Motions, Petitions and Communications (Continued)

Representative Ward moved that the following bill be withdrawn: **HB 305**. Agreed.

Representative Freibert moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that she be recorded as voting "yea" on **HB 271**. Agreed.

The following members filed requests to have their names added as co-sponsors of the following Bills and Resolutions under the previous rules suspension: **HCR 13**, Representative Bruce; **HJR 68**, Representative J. Harper; **HB 340**, Representatives Donnermeyer, Reinhardt; **HB 408**, Representative Lyne; **HB 410**, Representative Lyne; **HB 418**, Representative J. Harper; **HB 419**, Representatives Bruce, Deskins.

The following members filed requests to have their names withdrawn as co-sponsors of Bills: **HB 291**, Representative Farrow; **HB 358**, Representative Collins; **HB 431**, Representative Ark.

Announcements

The following meetings were announced:

Majority Caucus, Room 129 upon adjournment February 5, 1992.

State Government, 10:00 a.m., February 6, 1992 in Room 129.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 6, 1992.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Little, Long, Lyne, Mack, Maggard, Mason, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Hatcher, LeMaster, Lile, McElroy.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 6, 1992

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Pastor Jim Nabors, Assembly of God, Flemingsburg.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 5, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 53**, **SB 81**, **HB 4**, **HB 8**. (Time: 2:03 p.m.)

Representative Noe moved that the rules be suspended to introduce and act upon a Resolution and to grant floor privileges to special guests. Agreed.

HR 74, by Representative Noe: A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Mr. Football and Evarts High School Wildcat, Scott Russell.

Representative Noe moved the adoption of the following **HR 74**:

HR 74, A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Mr. Football and Evarts High School Wildcat, Scott Russell.

WHEREAS, Scott Russell has earned a place in the hearts of all Kentuckians through his outstanding action on the football field; and

WHEREAS, Scott Russell, "The Record Breaker" has carried the ball for a total of 7,090 yards; and

WHEREAS, this young Kentuckian's many honors include a proclamation presented by former Lt. Governor Brereton Jones, the 1990 and 1991 Class A and SEKC Player of the Year Award, the 1990 and 1991 First Team All State and SEKC Best Offensive Back designation; and

WHEREAS, Scott Russell's fame arouses ambition in the hearts of all Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor Scott Russell, outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 2. That when the House of Representatives adjourns this day, it does so in honor of Scott Russell.

Section 3. That Representative Roger Noe present a copy of this Resolution to Scott Russell.

HR 74 was adopted by voice vote.

Representative Noe moved that a call of the roll be taken to show co-sponsors of **HR 74**.

On the roll call the vote was yeas 94—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Introduction of Bills and Resolutions

HB 443, by Representative Barrows: AN ACT relating to education.

HB 444, by Representative Lewis: AN ACT relating to training of corrections personnel.

HB 445, by Representative Lewis: AN ACT relating to crimes and punishments.

HB 446, by Representative Lewis: AN ACT relating to the registration of professional engineers.

HB 447, by Representatives Mack and Heleringer: AN ACT relating to supported living services for persons with a disability.

HB 448, by Representatives Lewis, Jones and Geveden: AN ACT relating to financing county law libraries.

HB 449, by Representative J. Harper: AN ACT relating to write-in votes.

HB 450, by Representative Curd: AN ACT relating to equine programs at state universities.

HR 75, by Representative Barrows: A RESOLUTION to encourage the United States Congress to examine its foreign policy towards Ethiopia.

HCR 76, by Representatives Morris and Bentley: A CONCURRENT RESOLUTION encouraging the Auditor of Public Accounts to advise and assist the Legislative Program Review and Investigations Committee.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 429, HB 411, HB 439**

Banking and Insurance: **HB 419, HB 434, HB 431, HB 433, HB 415, HB 423**

Business Organizations and Professions: **HB 421, HB 416, HB 412**

Cities: **HB 414**

Counties and Special Districts: **HB 442**

Education: **HB 425, HB 426, HB 427**

Elections and Constitutional Amendments: **HB 428**

Health and Welfare: **HB 430, HB 420, HB 440, HB 424**

Judiciary: **HB 422, HB 432, HB 413, HB 441**

Natural Resources and Environmental Protection: **HJR 68, HB 418**

Tourism and Energy: **HB 435, HB 438**

Transportation: **HB 417, HJR 73, HB 437, HB 436**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 377, HB 396, HB 397, HB 398, HB 399, HB 400, HB 401**

Report of Committees

The Committee on Natural Resources and Environmental Protection reported **HB 176, HB 178**, with Committee Substitute attached thereto, **HB 264** and **HB 342** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 176, AN ACT relating to solid waste recycling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.045 is amended to read as follows:

(1) The Kentucky Recycling Brokerage Authority, referred to in this section as the "authority," is created by this section to further local governments' efforts to develop reliable markets for their recyclables. The authority shall be composed of seventeen (17) members as follows:

(a) The secretary of the Economic Development Cabinet, who shall serve as chairman;

(b) The secretaries of the Finance and Administration and Natural Resources and Environmental Protection Cabinets, and the commissioner of the Department of Local Government; and

(c) Thirteen (13) members appointed by the Governor including representatives of municipal and county governments; legislators; citizens representing environmental interests; and industry representatives.

(2) These seventeen (17) persons and their successors in office shall constitute the Kentucky Recycling Brokerage Authority, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, and to exercise, in addition to the powers and functions conferred by this section, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(3) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and function as members.

(4) Nine (9) members of the authority shall constitute a quorum for the transaction of business. The Economic Development Cabinet shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's action and proceedings, which shall be public records open to inspection.

(5) On or before July 1, 1991, the Governor shall appoint thirteen (13) members of the authority as follows: five (5) shall serve terms ending July 1, 1995; four (4) shall serve terms ending July 1, 1994; and four (4) shall serve terms ending July 1, 1993. As the terms of each group of members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed.

(6) The authority, with staff assistance from the Economic Development Cabinet, shall act as a state broker for local governments ***and commercial recycling businesses*** seeking to sell recyclable materials. The authority shall:

(a) Identify local, state, and interstate markets for recyclables;

(b) Issue requests for proposals as well as directly contact potential buyers;

(c) Negotiate contracts with potential buyers on behalf of participating local governments***, commercial recycling businesses,*** or local groups;

(d) Arrange details of contracts including price collection schedules, reimbursements, and quality assurance provisions;

(e) Conduct workshops and seminars throughout the state to train recycling center and solid waste facility operators on how to prepare and process materials that will be marketed through the brokerage office;

(f) Issue routine market bulletins containing pricing information and other program details to all local governments, ***and commercial recycling businesses,*** both those participating as well as nonparticipants; and

(g) Handle all paperwork for the brokering service including contracts, invoices, weigh slips, and records of collections and issue revenue checks to participants.

(7) Local governments ***and commercial recycling businesses*** participating in the Kentucky Recycling Brokerage Authority shall be assessed a brokerage fee of fifteen percent (15%) of the sale revenue or two dollars ($2) per ton of recyclables sold, whichever is greater.

(8) In addition to any brokerage fees received, the authority may receive and accept from any governmental agency, nonprofit organization, or from private enterprise appropriations, grants or contributions of money, property, labor, or other things of value, to be used to carry out the functions of the authority.

(9) The authority shall annually issue financial and informational reports to the General Assembly which shall contain full descriptions of tonnage volumes handled, revenues generated, contracts entered into, market summaries and reviews, and other information under which a full review of the brokerage program is possible. The report shall be due on July 1 of each year.

(10) The authority shall also include in its July 1, 1993 annual report to the General Assembly the following:

(a) A description and analysis of the Commonwealth's existing recycling industry, the types, and estimated amounts of recovered material being separated or reprocessed;

(b) An analysis of the projected long-term capacity of existing markets to absorb materials generated by materials recovery or recycling programs;

(c) An analysis of potential markets in the Commonwealth, in other states, or in foreign countries for recovered material or products manufactured using recovered material from this Commonwealth;

(d) An analysis of institutional, economic, and technical barriers to the use of recovered material or products manufactured using recovered materials;

(e) Recommendations for actions which may be taken to increase demand for recovered materials or products;

(f) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to recover materials;

(g) Recommendations on categories of materials which should be recovered in this Commonwealth, given existing and potential markets for such materials;

(h) Recommendations for a public education program to be implemented by the Natural Resources and Environmental Protection Cabinet and the Environmental Council to provide information to the public and to business and industry on the benefits of materials recovery and recycling and on the availability of those materials or products; and

(i) A review of state and local government procurement policies and recommendations for actions which might be taken to encourage waste reduction and recycling.

(11) In subsequent years the authority shall include in its annual report the following:

(a) Any revisions which the authority determines are necessary to its initial report;

(b) An analysis of changes that have occurred with markets for recovered material and products manufactured using recovered material since the last report; and

(c) Any other recommendations to facilitate the development of markets for recovered material and products manufactured using recovered material in this Commonwealth.

HB 178, AN ACT relating to on-site sewage disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for [~~such~~] systems that have a surface discharge[~~, and for such systems being installed on a farmstead as defined in KRS 318.010(8); however, the cabinet shall regulate the construction, installation or alteration of on-site sewage disposal systems installed on any farmstead located in a county containing a city of the first class~~].

(2) No person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet. ***The*** [~~Such~~] construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit ***if*** [~~where~~] the cabinet through a duly authorized inspector, employee or agent finds that the system was not constructed, installed, or altered in conformance with ***the*** [~~such~~] permit and regulations issued by the cabinet.

(4) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of an approved percolation test in the area where the proposed system is to be located if required by the cabinet by regulation and additional soils and other information as directed by the cabinet by regulation.

(5) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. ***The*** [~~Such~~] fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(6) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1986, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(7) All records necessary to properly carry out this section shall be transferred from the Department of Housing, Buildings, and Construction to the Cabinet for Human Resources.

The Committee Substitute to **HB 178** is as follows:

HB 178, AN ACT relating to on-site sewage disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.015 is amended to read as follows:

(1) As used in KRS 211.005 to ***211.380*** [~~211.280~~], unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) ***"Farmstead" means a farm dwelling, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land outside the corporate limits of a municipality:***

1. Used for the production of livestock, livestock products, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, and wheat; or

2. Where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(c) "Secretary" means the secretary of the Cabinet for Human Resources; and

(d)[~~(c)~~] "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.

(2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:

(a) "Department" means Department for Health Services;

(b) "Commissioner" means the commissioner of the Department for Health Services;

(c) "Committee" means the Hemophilia Advisory Committee; and

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 2. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for [~~such~~] systems that have a surface discharge[~~, and for such systems being installed on a farmstead as defined in KRS 318.010(8); however, the cabinet shall regulate the construction, installation or alteration of on-site sewage disposal systems installed on any farmstead located in a county containing a city of the first class~~].

(2) No person, firm, or corporation shall construct, install, alter or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the cabinet. ***Nothing in this section shall be construed as to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the*** [~~Such~~] construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit ***if*** [~~where~~] the cabinet through a duly authorized inspector, employee, or agent finds that the system was not constructed, installed, or altered in conformance with ***the*** [~~such~~] permit and regulations issued by the cabinet.

(4) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of [~~an approved percolation test in the area where the proposed system is to be located if required by the cabinet by regulation and additional~~] soils ***tests*** and other information as directed by the cabinet by regulation.

(5) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. ***The*** [~~Such~~] fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(6) Any regulation relating to on-site sewage disposal that is in effect on July 15, ***1992*** [~~1986~~], shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(7) ***Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action*** [~~All records necessary to properly carry out this section shall be transferred from the Department of Housing, Buildings, and Construction to the Cabinet for Human Resources~~].

HB 264, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

The positions of mine inspector supervisor, mine inspector, mine safety analyst, and instructor, if the instructor is a member of the mine rescue team certified by the United States Mine Safety and Health Administration, shall be considered as hazardous positions within the meaning of KRS 61.592. The Department of Mines and Minerals shall make the employer contributions for participation in the hazardous duty retirement program as required by KRS 61.592(3)(b).

Section 2. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement (including the positions of probation and parole officer, and Commonwealth detective), active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, ***and, within the Department of Mines and Minerals, mine inspector supervisors, mine inspectors, mine safety analysts, and instructors satisfying the standard established in Section 1 of this Act,*** with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Corrections Cabinet in state correctional institutions and the Kentucky

Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the board in the manner prescribed by the board the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. The rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, ***the*** [~~then said~~] employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. ***If*** [~~Should~~] the employer ***does not*** elect [~~not~~] to make the additional payment, [~~then~~] the employee may make the lump-sum payment in his own behalf or may pay in his own behalf in increments by payroll deduction each pay period prior to his retirement. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) ***If*** [~~In the event of~~] doubt ***exists*** regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

HB 342, AN ACT relating to the transportation of waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 174.990 is amended to read as follows:

(1) Any person who willfully hauls, transports, or causes to be transported any hazardous material which is not a hazardous waste, into, out of, within, or through the Commonwealth in violation of the provisions of KRS 174.400 to 174.435, or contrary to a permit, order, or regulation issued or promulgated under KRS 174.400 to 174.435, or willfully makes a false statement, representation, or certification in an application for a permit or in a report required by KRS 174.400 to 174.435, shall be fined not less than two hundred fifty dollars ($250) nor more than twenty-five thousand dollars ($25,000), for each day of violation.

(2) Any person who operates a municipal solid waste transportation vehicle in violation of KRS 174.450 and adminstrative regulations promulgated by the cabinet pursuant to KRS 174.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1000) for each day of violation.

The Committee on Transportation reported **HB 169**, with Committee Amendment attached thereto, **HB 174**, with Committee Amendment attached thereto, **HB 184** and **HB 207** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 169, AN ACT relating to boats and boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, ***including nondisplacement craft and seaplanes*** [~~other than a seaplane~~] on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery[~~, whether or not such machinery is the principal source of propulsion, except for the following:~~

~~(a) Boats or vessels propelled totally by a direct current battery powered motor not to exceed one (1) horsepower, excluding those with generator systems; and~~

~~(b) Boats propelled by human power employing the use of hand or foot operation~~];

(3) ***"Sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used;***

(4) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(5)[~~(4)~~] "Waters of this state" means any waters within the territorial limits of this state;

(6)[~~(5)~~] "Person" means an individual, partnership, firm, corporation, association, or other entity;

(7)[~~(6)~~] "Operate" means to navigate or otherwise use a motorboat or a vessel;

(8)[~~(7)~~] "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(9)[~~(8)~~] "Department" means the Department for Natural Resources;

(10)[~~(9)~~] "License" and "certificate of number" as used herein are synonymous;

(11)[~~(10)~~] "Clerk" means county clerk;

(12)[~~(11)~~] "Division of Water Patrol" means the Division of Water Patrol, Department for Natural Resources***;***[~~.~~]

(13)[~~(12)~~] "Title" means the certificate of title***;***[~~.~~]

(14) "Personal watercraft" means a vessel which uses an inboard or outboard motor powering a water jet pump as its primary source of motive power, and which is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by a person sitting or standing inside the vessel;

(15) "No-wake" means the operation of a vessel at the slowest possible speed necessary to maintain steerage; and

(16) "Underway" with respect to a vessel means in motion, not at anchor or aground, nor made fast to the shore or a dock.

Section 2. KRS 235.240 is amended to read as follows:

(1) No person shall operate any motorboat*, **personal watercraft,*** or ***sailing*** vessel, or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) No person shall operate any motorboat*, **personal watercraft,*** or ***sailing*** vessel, ***while it is underway, or manipulate any water skis, surfboard, or similar device under circumstances which would constitute a violation of KRS 189A.010*** [~~or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana~~].

(3) Anyone who operates a motorboat, personal watercraft, or sailing vessel, while it is underway, shall be deemed to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purposes of determining alcohol concentration or presence of a substance which may impair one's ability to operate a motorboat, personal watercraft, or sailing vessel. Testing shall be performed in the same manner as provided in KRS Chapter 189A.

(4) No person shall be compelled to submit to any test or tests specified in subsection (3) of this section, but his refusal to submit to such tests shall result in the penalty provided in KRS 235.990(2).

(5) At the time a breath, blood, or urine test is requested, the person shall be informed that if the person refuses to submit to the tests he shall be subject to the penalty provided in KRS 235.990(2).

(6) Nothing in this section shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of this section arising from an incident when a person is killed or suffers physical injury as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

Section 3. KRS 235.990 is amended to read as follows:

(1) ***Any person who violates the provisions of KRS 235.240(2) shall be punished in the same manner as provided in KRS 189A.010.***

(2) Any person who refuses to submit to the tests required in KRS 235.240(2) shall be subject to a penalty that is double the penalty provided in KRS 189A.010.

(3) In addition, to any other penalty provided in this section, the court shall sentence anyone who violates the provisions of KRS 235.240(2) to attend an alcohol or substance abuse education or treatment project in the same manner as provided in KRS 189A.040 and 189A.045.

(4) Any person who violates any of the provisions of this chapter*, **other than KRS 235.240(2) or (4),*** shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(5)[~~(2)~~] Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

The Committee Amendment No. 1 to **HB 169** is as follows:

Amend printed copy of **HB 169** on page 5, after line 15, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS 235 IS CREATED TO READ AS FOLLOWS:

The Division of Water Patrol shall be required to routinely patrol the waters under its jurisdiction in order to identify and mark by buoy or other visible marking any unremovable object that may be a hazard to navigation. If the hazard is removable, the Water Patrol shall mark the hazard by buoy or other visible marking and shall contact the Army Corps of Engineers in order to provide for the removal of the hazard."

HB 174, AN ACT relating to bicycles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall develop and coordinate a statewide bicycle and bikeways program and shall coordinate plans for promotion of bicycling and promotion of bikeways with other state agencies,

and units of local government in order to maximize the use of roads, streets, parks and other publicly owned lands, abandoned road beds, and other resources in the development of bikeways.

(2) The cabinet shall:

(a) Assist and cooperate with local governments and other agencies in the development and construction of local and regional bikeway projects;

(b) Develop and publish policies, procedures, and standards for planning, designing, and constructing, maintaining, marking, and operating bikeways in the state, and for the safety of bicyclists, motorists, and the public;

(c) Develop bikeway demonstration projects and safety training programs; and

(d) Develop and construct a State Bikeway System.

(3) (a) The cabinet shall be authorized to appropriate needed funds for the program in the biennial budget, subject to approval of the General Assembly.

(b) The cabinet is authorized to obtain any federal, state, local, or private funds available to the cabinet, and designated for the purpose of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a Kentucky Bicycle and Bikeway Commission within the Transportation Cabinet. The commission shall consist of seven (7) members appointed by the Governor. Members of the commission shall receive necessary travel expenses. The members of the commission shall elect a chairman who shall serve a two (2) year term. Initially, three (3) members shall be appointed for two (2) years, and four (4) members for four (4) years. Each appointment thereafter shall be for four (4) years. Upon the resignation of a member in midterm, the Governor shall appoint a replacement for the remainder of the unexpired term. The Governor shall make appointments to the commission with a view to represent each of the state's geographical regions and to various types of bicycle users and interests.

(2) The commission shall meet in various sections of the state on a quarterly basis, and at other times as may be necessary to fulfill its duties. A majority of the members shall constitute a quorum for the transaction of business. The commission shall be provided with adequate staff as determined by the secretary, and this staff shall be responsible for maintaining the minutes of the meetings, researching bicycle and bikeway related topics, and other activities for the commission as may be consistent with the commission's role within the cabinet.

(3) The commission shall have the following duties:

(a) To represent the interests of bicyclists in advising the secretary on all matters pertaining to bicycles, bikeways, and their use, extent, and location;

(b) Assist the bicycle and bikeway program in the exercise of its duties within the cabinet;

(c) Promote the best interests of the bicycling public, within the context of the total transportation system, to governing officials and the public at large.

(4) The secretary shall study bicycle and bikeway needs and potentials, and shall report the findings to the legislature on an annual basis.

(5) The secretary shall adopt administrative regulations to implement the purposes of this Act.

The Committee Amendment No. 1 to **HB 174** is as follows:

Amend printed copy of **HB 174** on page 3, after line 22, by inserting the following:

"***(6) Initial appointments to the commission shall be made no later than August 1, 1994.***"

HB 184, AN ACT relating to motor vehicle usage taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the value given in ***the*** [~~such~~] reference manual;

(c) ***For used motor vehicles whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, but whose mileage as disclosed under KRS 190.300 exceeds one hundred thousand (100,000) miles, "retail price" shall be seventy-five percent (75%) of the value given in the reference manual.***

(d) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(e)[~~(d)~~] In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(f)[~~(e)~~] If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of ***the*** [~~such~~] registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, [~~then~~] the "retail price" of ***the*** [~~such~~] vehicle shall be the same as the retail price determined in subsection (b) or ***(d)***[~~(c)~~] of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection ***(e)***[~~(d)~~] of this section shall not apply.

(5) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind, or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk.

HB 207, AN ACT relating to handicapped parking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The Transportation Cabinet shall issue, free of charge, a certificate of registration and [~~two (2)~~] license ***plate*** [~~plates~~] or renewal ***decal*** [~~decals~~] to each disabled veteran who has been or shall be given financial assistance towards the purchase or lease of a motor vehicle by the Veterans Administration under the provisions of Title 38, Section 1901, of the United States Code or any other public law that may be passed by the Congress of the United States, and who is a resident of Kentucky.

(2) Any disabled veteran who has been declared to be at least seventy percent (70%) disabled by the Veterans Administration and has not received any financial assistance from the Veterans Administration toward the purchase of a vehicle, may, upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee, obtain a plate in accordance with this section. Under this provision, the plate shall be issued for a five (5) year period and annually upon application to the county clerk, and after payment of thirteen dollars fifty cents ($13.50), two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. ***The*** [~~Such~~] decal shall be affixed to the five (5) year registration plate. Transfer of a vehicle registered pursuant to this subsection shall be in accordance with the provisions of this section.

(3) The license plates provided for in ***subsections*** [~~subsection~~] (1) ***and (2)*** of this section shall be manufactured to last at least five (5) years and shall be printed in three (3) colors, red, white and blue. One-half (1/2) of the license plate shall be in one (1) color, the other half (1/2) a second color and the figures and lettering the third color. Each plate shall contain ***the international symbol of access adopted by Rehabilitation International in 1969,*** the name of the state, the year, the registration number, and the words "Handicapped Vet."

(4) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the license plate and return it and the certificate of registration ***to the county clerk. The clerk shall issue a regular license plate and certificate of registration*** upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the special plate has been presented to the clerk, he shall reissue ***it*** [~~same~~] free from payment to the Transportation Cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who ***shall*** [~~will~~] forward the license plate to Frankfort.

(5) ***These*** [~~Such~~] license plates ***shall*** [~~are~~] not ***be transferred*** [~~transferable~~] to any person or persons not entitled to them under this section.

(6) No county, city, town, or any other political subdivision of this state shall require any license or fee from any disabled veteran for the privilege of operating a motor vehicle licensed by the department under the provisions of subsection (1) of this section upon the streets or alleys of any political subdivision, any other provisions of law to the contrary notwithstanding.

(7) Application for the special license plates shall be made to the cabinet in accordance with ***the administrative*** [~~such~~] regulations [~~as~~] the cabinet may ***issue*** [~~have issued~~].

(8) When a motor vehicle bearing plates issued to a disabled veteran as prescribed in this section is being operated by or for the benefit of the disabled veteran, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(9) Registration issued under this section shall expire on July 31.

(10) ***If*** [~~In the event~~] a disabled veteran plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions [~~thereon~~] are not discernible, the owner may obtain a replacement plate free of charge.

(11) The cabinet may ***promulgate*** [~~make such~~] reasonable ***administrative*** [~~rules and~~] regulations [~~as~~] it deems necessary to further the purpose of this section.

Section 2. KRS 186.042 is amended to read as follows:

(1) ***For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:***

(a) Cannot walk two hundred (200) feet without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assisting device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person ***with disabilities which limit or impair the ability to walk,*** who has lost the use of [~~a leg or both legs, or~~] an arm or both arms, [~~or any combination thereof,~~] or [~~any person~~] who is blind, the Transportation Cabinet shall issue the handicapped person ***a*** special registration ***plate*** [~~plates~~] or renewal ***decal*** [~~decals~~] designating the vehicle licensed as being owned by or leased by a handicapped person. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear ***the international symbol of access adopted by Rehabilitation International in 1969*** [~~a handicapped insignia approved by the cabinet~~], reading from left to right and shall be followed by [~~such~~] numbers or letters [~~as~~] the cabinet finds expedient. The cabinet shall not issue ***the*** registration plates so designated to any person other than a handicapped person ***as described above.*** The cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration ***plate*** [~~plates~~] or renewal ***decal*** [~~decals~~].

(3) The application for a handicapped license plate shall be made on a form prepared by the Transportation Cabinet. For every person seeking a special handicapped license plate proof of the handicap shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously handicapped as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4)[~~(2)~~] Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of [~~title and~~] registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the special plate has been presented to the clerk, he shall reissue ***the plate,*** [~~same~~] free of charge by the Transportation Cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the special plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who ***shall*** [~~will~~] forward the license plate to Frankfort.

(5)[~~(3)~~] When a motor vehicle bearing plates issued to a handicapped person as prescribed in this section is being operated by or for the benefit of the handicapped person, ***who is in the motor vehicle when the motor vehicle is being operated*** the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(6)[~~(4)~~] Any handicapped person seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(7)[~~(5)~~] Registration under this section shall expire July 31.

(8)[~~(6)~~] The cabinet may ***issue the administrative*** [~~make such rules and~~] regulations [~~as~~] it deems necessary to further the purpose of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) On the application of any agency or organization which transports handicapped persons described in KRS 186.042 as part of the service provided by that agency or organization to the county clerk for a special registration plate for a vehicle used in the transportation of handicapped persons, the Transportation Cabinet shall issue the agency or organization a special registration plate or renewal decal designating the vehicle licensed as being owned or leased by an agency or organization which transports the handicapped. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right, and shall be followed by the numbers or letters the cabinet finds expedient. The cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal.

(2) The application for a handicapped license plate for an agency or organization which transports the handicapped shall be made on a form prepared by the Transportation Cabinet. For every agency or organization seeking a special handicapped license plate, the application shall contain at least the following:

(a) Name of the agency or organization requesting use of a special handicapped parking placard;

(b) Number of vehicles being used in the transportation of handicapped persons; and

(c) A statement from the director of the agency or organization verifying the need for the parking placard.

(3) Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollars and fifty cents ($11.50) state fee and a two dollar ($2) clerk's fee. When the special plate has been presented to the clerk, he shall reissue the plate free of charge by the Transportation Cabinet and upon payment of one dollar ($1) clerk's fee, for use on any other vehicle owned or leased by the same agency or organization who purchased the special plate for the current licensing period. The license plate and decal on the other vehicle shall be turned into the county clerk, who shall forward the license plate to Frankfort.

(4) When a motor vehicle bearing plates issued to an agency or organization which transports the handicapped as prescribed in this section is being operated for the benefit of a handicapped person who is in the motor vehicle at the time it is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(5) Registration under this section shall expire July 31.

(6) The cabinet may issue the administrative regulations it deems necessary to further the purpose of this section.

Section 4. KRS 189.456 is amended to read as follows:

(1) On the application of any person who has a severe visual, audio, or physical impairment, including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits ***or impairs*** one's personal mobility ***or ability to walk***, the county clerk in the county of ***the*** [~~such~~] person's residence shall issue the handicapped person a special parking placard. In addition, any agency or organization which transports handicapped persons as a part of the service provided by that agency or organization shall receive a special parking placard upon application to the county clerk for each vehicle used in the transportation of handicapped persons. The special parking placard issued shall ***be a two (2) sided hanger style placard and shall on each side*** bear the ***international*** [~~universal~~] symbol of access ***adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet,*** and shall contain the special parking placard ***identification*** number and [~~such~~] other information [~~as~~] the Transportation Cabinet may by regulation require. ***The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a blue shield.***

(2) The fee payable to the county clerk for a special parking placard shall be eight dollars ($8.00) for each placard and ***the*** [~~such~~] placard shall be valid for a period of six (6) years. The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.

(3) For every person seeking a special handicapped parking placard, proof of ***the*** [~~such~~] handicap shall be required by:

(a) Evidence that the individual has a license plate for a disabled ***person*** [~~veteran~~] as provided by KRS 186.041 or 186.042;

(b) The county clerk issuing the permit ascertaining that the applicant is obviously handicapped; or

(c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a permanent [~~or temporary~~] disability to that person's arms, legs, lungs, heart, ears, or eyes.

(4) For every agency or organization seeking a special handicapped parking placard, application for ***the*** [~~said~~] placard shall include:

(a) Name of the agency or organization requesting use of a special handicapped parking placard;

(b) Number of vehicles being used in the transportation of handicapped persons; and

(c) A statement from the director of the agency or organization verifying the need for ***the*** [~~such~~] parking placard.

(5) ***The special parking placard shall, when the vehicle is parked in a handicapped parking space, be displayed so that it may be viewed from the front and rear of the vehicle by hanging the placard from the front windshield rear view mirror when there is no rear view mirror, the placard shall be displayed on the dashboard*** [~~No unauthorized person shall knowingly possess a special parking placard for the handicapped~~].

(6) ***A person who has not been issued a handicapped license plate under the provisions of KRS 186.041 or 186.042 may be issued a second handicapped parking placard for a fee of four dollars ($4)*** [~~False application for a special parking placard shall constitute a violation of KRS 523.100.~~

~~(7) When a motor vehicle which is being operated by or for the benefit of the handicapped person is displaying an auto registration plate as provided in KRS 186.042, an out-of-state handicapped registration plate, a handicapped parking placard issued by any veterans' administration hospital or a special parking placard issued to a handicapped person as prescribed in this section, the motor vehicle may be parked in a designated handicapped parking place. When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a designated handicapped parking area in a motor vehicle not displaying either a handicapped auto registration plate as provided in KRS 186.042 or an out-of-state handicapped registration plate on the rear of the vehicle unless he displays on the dashboard of his motor vehicle a special parking placard issued to the handicapped. No person shall park a vehicle displaying a special parking placard in a designated handicapped parking area when such vehicle is not being used for the benefit of a handicapped person.~~

~~(8) No unauthorized person shall knowingly possess a transferable placard for the handicapped.~~

~~(9) No person shall make, issue, possess, or knowingly use any imitation or counterfeit of a transferable placard for the handicapped.~~

~~(10) A temporary disabled parking placard shall be issued to an applicant who has provided written proof from a licensed physician to the Transportation Cabinet stating that the applicant has been temporarily disabled. The placard shall be issued for a period not to exceed six (6) months and may be renewed for an additional six (6) months. A fee of two dollars ($2.00) shall be charged for each temporary parking placard issued or renewed~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Upon application of any person who has a severe temporary visual, audio, or physical impairment, including partial paralysis, heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk, the county clerk in the county of the person's residence shall issue the handicapped person a special temporary parking placard.

(2) The special parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the special parking placard identification number and other information the Transportation Cabinet may by administrative regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a red shield.

(3) The fee payable to the county clerk for a special temporary parking placard shall be two dollars ($2) for each placard and the placard shall be valid for a period of no more than six (6) months. The placard may be renewed for an additional six (6) months for a two dollar ($2) renewal fee.

(4) The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.

(5) For every person seeking a special temporary handicapped parking placard, proof of the handicap shall be required by a statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a temporary disability to that person's arms, legs, lungs, heart, ears, or eyes.

(6) The special temporary parking placard, when the vehicle is parked in a handicapped parking space, shall be displayed so that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.

SECTION 6. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) When a motor vehicle which is being operated by or for the benefit of the handicapped person who is in the motor vehicle at the time it is being operated is displaying an auto registration plate as provided in KRS 186.041 or 186.042 or Section 3 of this Act, an out-of-state handicapped registration plate bearing the international symbol of access, a handicapped parking placard issued by any Veterans' Administration hospital or a special parking placard issued to a handicapped person as prescribed in KRS 189.456 or Section 5 of this Act or by another state when the special parking placard meets the basic requirements of KRS 189.456 or Section 5 of this Act, the vehicle may be parked in a designated handicapped parking place.

(2) When parked where a parking limit is imposed, the vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard. No person shall park in a designated handicapped parking area in a motor vehicle not displaying either a handicapped auto registration plate as provided in KRS 186.041, 186.042, Section 3 of this Act, or an out-of-state handicapped registration plate on the rear of the vehicle unless he displays on the dashboard of his motor vehicle a special parking placard issued to the handicapped. No person shall park a vehicle displaying a special parking placard in a designated handicapped parking area when the handicapped person is not in the motor vehicle.

(3) No person shall make, issue, possess, or knowingly use any imitation, counterfeit, or transferable placard or license plate for the handicapped.

The Committee on Health and Welfare reported **HB 310**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 310** is as follows:

HB 310, AN ACT relating to rural hospitals and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act "physician extender" means an advanced registered nurse practitioner, or a physician assistant.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 1996, all acute-care hospitals which meet at least one (1) of the following criteria shall have long-range strategic plans:

(a) A reported acute-care occupancy rate in the six (6) months prior to the effective date of this Act which is less than thirty percent (30%); or

(b) A reported acute-care average daily census in the six (6) months prior to the effective date of this Act which is less than twenty (20) patients.

(2) On request of the hospital, the University of Kentucky Center for Rural Health Excellence shall provide technical assistance to the hospital in the development of the long-range strategic plan on a shared-cost basis.

(3) The Governor shall designate an entity to serve as the Office of Rural Health for the Commonwealth. This office shall report to the Legislative Research Commission, no later than October 1, 1993, on the status of strategic-planning activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) The licensure category of rural primary-care hospital, is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a rural primary-care hospital without first obtaining a license from the Cabinet for Human Resources. An acute-care hospital converting to a rural primary-care hospital shall not require a certificate of need. New construction of a rural primary-care hospital shall require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a rural primary-care hospital. No new rural primary care hospital facilities shall be constructed before July 15, 1994.

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a rural primary-care hospital if all of the following criteria are met:

(a) The facility is located at least twenty (20) miles, via road that is paved yearround, from the nearest licensed acute-care hospital providing twenty-four (24) emergency care;

(b) The facility has sixty (60) or fewer beds; and

(c) The facility is not in a county which is part of a standard metropolitan statistical area.

(4) A rural primary-care hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.

(b) At least six (6) acute-care beds which shall be used for observation and treatment of acute-care conditions designated by the Cabinet for Human Resources. In no case shall patients remain in a rural primary-care hospital for more than ninety-six (96) hours; and

(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day.

(5) A rural primary-care hospital may provide the following services:

(a) Dual-licensed beds in accordance with KRS 216B.107, swing beds, or a distinct nursing facility, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled nursing facility;

(b) Surgery with the limits of the ninety-six (96) hour length of stay and designated conditions;

(c) Normal obstetrics within the limits of the ninety-six (96) hour length of stay;

(d) Primary care;

(e) Adult day health care;

(f) Respite care; and

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractural basis.

(6) The following staffing plan shall apply to a rural primary-care hospital:

(a) The medical staff shall have at least one (1) physician who shall serve as a medical director; and

(b) Physician extenders may treat patients within the limits of their statutory scope of practice. Physician extenders shall be supervised by a physician who is not required to be on site at all times. When the facility is occupied by a patient, a physician shall be on call within one-half (1/2) hour.

(7) A rural primary-care hospital shall have a written quality-assurance program. Quality assurance may be provided through a contractual arrangement.

(8) A rural primary-care hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the rural primary-care hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(9) An application for licensure as a rural primary-care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for Human Resources. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other servces available or the lack thereof in the service area of the applicant.

(10) The Cabinet for Human Resources shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a rural primary-care hospital.

(11) The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 4. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes; state veterans' nursing homes; ***services provided on a contractual basis in a rural primary-care hospital as provided under Section 3 of this Act;*** community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate

care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute care hospitals, as defined by administrative regulation, in counties with more than 3,000 acute care hospital beds, except as these provisions relate to rehabilitation beds and long term care beds.

(3) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(4) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

Section 5. Whereas twenty-six (26) rural hospitals in the Commonwealth have an average daily census of less than twenty (20) patients, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Health and Welfare reported **HB 352**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 352, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may provide cigarettes or tobacco products or samples thereof free of charge to any person under the age of twenty-one (21).

(2) Any person who violates the provisions of this section shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No advertising device defined by KRS 177.830 intended to attract the attention of operators of motor vehicles or passengers therein and which advertises cigarettes or tobacco products shall be located within five hundred (500) feet of any elementary or secondary school property.

(2) Any person who violates the provisions of this section shall be fined not less than one hundred dollars ($100) for each offense.

Section 3. KRS 438.045 is amended to read as follows:

(1) No person shall [~~knowingly~~] sell or cause to be sold any tobacco product at retail to any person under the age of ***eighteen (18)*** [~~sixteen (16)~~], or [~~knowingly~~] solicit any person under the age of ***eighteen (18)*** [~~sixteen (16)~~] to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment the following notice: "The Sale of Tobacco Products To Any Person Under Age ***Eighteen*** [~~Sixteen~~] Is Prohibited By Law."

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for ***the second*** [~~any subsequent~~] violation***; and shall be guilty of a class B misdemeanor for subsequent offenses.***

The Committee Substitute to **HB 352** is as follows:

HB 352, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may provide cigarettes or tobacco products or samples thereof free of charge to any person under the age of eighteen (18).

(2) Any person who violates the provisions of this section shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No cigarette or tobacco products advertising shall be posted on a billboard with display space larger than fifty (50) square feet located within five hundred (500) feet of any elementary or secondary school building or adjacent school-owned property.

(2) Any person who violates the provisions of this section shall be fined not less than one hundred dollars ($100) for each offense.

Section 3. KRS 438.045 is amended to read as follows:

(1) No person shall knowingly sell or cause to be sold any tobacco product at retail to any person under the age of ***eighteen (18)*** [~~sixteen (16)~~], or knowingly solicit any person under the age of ***eighteen (18)*** [~~sixteen (16)~~] to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment ***a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).*** [~~the following notice: "The Sale of Tobacco Products To Any Person Under Age Sixteen Is Prohibited By Law."~~]

(3) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) for a first violation and a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for any subsequent violation.

Calendar

HB 209, HB 331, HB 89, HB 205, HB 183, HB 196, HB 244, HB 280 and **HB 164** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 183**, **HB 196**, **HB 205**, **HB 209**, **HB 244**, **HB 331** and **HB 310** have been posted for passage in the Orders of the Day for February 10, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 280**

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 4** and **HB 8** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:31 p.m)

HB 4 and **HB 8** were delivered to the Senate and signed by the President. Delivered to the Governor on February 6, 1992 at 2:44 p.m.

Orders of the Day

HB 46, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 46**. Agreed.

Representative Butler moved that **HB 46**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 6, 1992 roll call on **HB 46** - Appendix.)

HB 46, as amended, was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 46**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 72, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Floor Amendment No. 1 to **SB 72**. Agreed.

Representative Little moved that **SB 72**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 6, 1992 roll call on **SB 72** - Appendix.)

SB 72, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **SB 72**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 34** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See February 6, 1992 roll call on **SB 34** - Appendix.)

SB 34 was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 34** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Committee Title Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **HB 314** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 6, 1992 roll call on **HB 314** - Appendix.)

HB 314 was passed.

Representative Butler moved the adoption of Floor Title Amendment to **HB 314**. Agreed; and the title was agreed to.

Representative Butler moved that the vote by which **HB 314**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315 with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 315** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 6, 1992 roll call on **HB 315** - Appendix.)

HB 315 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 315** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 66 with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 66** be passed.

On the roll call the vote was: Yeas 84, Nays 4. (See February 6, 1992 roll call on **HB 66** - Appendix.)

HB 66 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 357 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 357** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 6, 1992 roll call on **HB 357** - Appendix.)

HB 357 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 357** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Pursuant to **HR 5**, the Speaker appointed the following committee to wait upon the Governor: Representative Barrows, Chairman, Representatives Ridley, Hancock, Noland and Palumbo.

Representative Heleringer moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 77, by Representatives Heleringer, Bronger and LeMaster: A RESOLUTION offering the best wishes of the members of the House of Representatives for the speedy and complete recovery of jockey, Mike McDowell and adjourning in his honor.

Representative Heleringer moved the adoption of the following **HR 77**:

HR 77, A RESOLUTION offering the best wishes of the members of the House of Representatives for the speedy and complete recovery of jockey, Mike McDowell and adjourning in his honor.

WHEREAS, Mike McDowell is an eight-time riding champion at Turfway Park, has ridden 19,377 races, with 2,517 wins and purse winnings of $16.7 million; and

WHEREAS, late Tuesday morning, Mike McDowell sustained a crushed vertebrae for which he will have surgery today; and

WHEREAS, today's surgery will give Mike McDowell a better chance of recovering completely, though how much he recovers will take many, many months to determine;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives express their deepest concern for Mike McDowell's medical condition.

Section 2. That the members of the House of Representatives extend to Mike McDowell and his family their fervent prayers, best wishes, and hopes for his complete recovery.

Section 3. That when the House of Representatives adjourns this day, Thursday, February 6, 1992, it does so in honor of Mike McDowell.

Section 4. That the Clerk of the House of Representatives is directed to send a copy of this Resolution to Mike McDowell, Turfway Park Race Course, 7500 Turfway Road, Boone City, Kentucky 41018.

HR 77 was adopted by voice vote.

Representative Heleringer moved that a call of the roll be taken to show co-sponsors of **HR 77**.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Bowling, Bronger, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Kerr, LeMaster, Lewis, Lile, Little, Long, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong; Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates. Nays 0.

Representative Zimmerman moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 79, by Representative Zimmerman: A RESOLUTION commending the leadership of the Kentucky Lottery Corporation.

Representative Zimmerman moved the adoption of the following **HR 79**:

HR 79, A RESOLUTION commending the leadership of the Kentucky Lottery Corporation.

WHEREAS, the Kentucky State Lottery has grown to a position of prominence among state lotteries across this great nation; and

WHEREAS, while lottery sales nationally have either remained constant or declined, Kentucky Lottery sales for calendar year 1991 were $343.1 million versus just $200 million at the end of calendar year 1990, an increase of $143.1 million or 71%; and

WHEREAS, fiscal-year-to-date lottery sales are $244.3 million versus $101.5 million for the same period in fiscal year 1991, a difference of $126.4 million, an increase of 141%, more than doubling sales; and

WHEREAS, in calendar year 1991, per capita lottery sales increased from $1.01 to $1.70, raising Kentucky's ranking in per capita sales from 26th to 16th among lottery states; and

WHEREAS, for fiscal year 1991-92, the original lottery revenue projection of $61 million has, due to the phenomenal success of the lottery, been raised to at least $90 million, an increase of 50% over original expectations;

WHEREAS, the Kentucky Lottery has provided fun and enjoyment for millions of Kentuckians, while contributing significant revenues to the Commonwealth in times of general economic decline; and

WHEREAS, President Jim Hosker, the Board of Directors, and the staff of the Kentucky Lottery Corporation have, through innovative leadership, hard work, and perservence caused the Kentucky Lottery to be an unqualified success;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the leadership of the Kentucky Lottery Corporation is commended for its success in the management of the Kentucky State Lottery.

Section 2. That the Clerk of the House is directed to send ten copies of this Resolution to the president of the Kentucky Lottery Corporation, Two Paragon Centre, 6040 Dutchman's Lane, Louisville, Kentucky 40205-3271, for distribution to the members of its board.

HR 79 was rejected by voice vote.

Representative Geveden moved that the rules be suspended to introduce guests and to allow floor privileges. Agreed.

Representative Noe moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Noe moved the adoption of the following Legislative Citation No. 16. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bill Musick of Evarts High School as the 1990 Kentucky Football Coach of the Year. The Wildcat's record of 8-4 is a reflection of your dedication, hard work, personal sacrifice, and a positive team effort. The incentive and motivation you gave to your team resulted in an outstanding season.

This prestigious body joins Representative Roger Noe in saluting you for your outstanding accomplishments. We extend to you our best wishes for continued future success.

Representative Noe moved the adoption of the following Legislative Citation No. 17. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Scott Russell as Mr. Kentucky Football of 1991. You are to be commended for this great honor and the state recognition you have bestowed upon your school and community. Your outstanding achievement reflects a high standard of performance, dedication, hard work, team spirit, and personal sacrifice. May the memories and merits of this accomplishment remain with you and guide you through future endeavors.

This prestigious body joins Representative Roger Noe in congratulating you and extends to you our best wishes for future success.

Representative Noe moved the adoption of the following Legislative Citation No. 18. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Wallace Napier Principal of Evarts High School. As a dedicated and inspirational educator, Wallace Napier is devoted to the scholastic attainment and academic development of Harlan County students. Through your years of committed service and participation with the Prichard Committee and the Renaissance Program, many young Kentuckians have gained a broader education, a greater appreciation of life, and a brighter future.

This prestigious body joins Representative Roger Noe in commending Wallace Napier.

Representative Stumbo moved that the rules be suspended for Introduction of Bill and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 451, by Representatives Clarke and Stumbo: AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commission, subdivisions, and other state supported activities.

HB 452, by Representative Little: AN ACT relating to health insurance.

HB 453, by Representative Ridley: AN ACT relating to long-term care.

HB 454, by Representatives R. Smith, Mason, Nelson, Stumbo, Little, Bronger, Richards, Ridley, Allen, Overstreet, Deskins, Moberly, Hourigan, Turner, Adkins, Arnold, Noland, Worthington, Riner, Bentley, Brown, McElroy, Mullinix, Cyrus, Gregory, Yates, Bruce, Long, T. Smith, Palumbo, Barrows, Jones, Johnson, Bowling, Callahan, Sheehan and Burch: AN ACT relating to insurance.

HB 455, by Representatives Cyrus, Bruce, Little, Sheehan, Bowling, Donnermeyer, Bentley, Maggard, Napier, Brown, Adkins, Nelson and Farley: AN ACT relating to executive department employees.

HB 456, by Representatives Scorsone, Mack and Stokes: AN ACT relating to health care decisions.

HB 457, by Representative Cyrus: AN ACT relating to unemployment insurance.

HB 458, by Representatives Butler and Donnermeyer: AN ACT relating to retiree health insurance.

HB 459, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 460, by Representatives Ward, Lear, Donnermeyer, Burch and Walker: AN ACT relating to safety.

HB 461, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 462, by Representative Cyrus: AN ACT relating to occupational safety and health of employees.

HB 463, by Representatives Napier, Gedling, Collins, Turner, Jensen, Maggard, Ford, Nelson, Toby, J. Harper, Overstreet, Reinhardt, Sanders and Strong: AN ACT relating to property taxation.

HB 464, by Representatives Ford, Maggard, Napier, Jensen and Noland: AN ACT relating to carrying concealed deadly weapons.

HB 465, by Representatives Moberly and Napier: AN ACT relating to the disposal of chemical agents.

HCR 78, by Representative Ridley: A CONCURRENT RESOLUTION supporting the Governor's efforts to seek designation for Kentucky as one of five states selected by the U. S. Secretary of Agriculture under Title XXIII of the federal 1990 Farm Bill.

HR 80, by Representatives Hourigan and Ark: A RESOLUTION commending Deputy Sheriff Terry Cruse of LaRue County and adjourning the House in his honor.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 391, HJR 19, HCR 64, HJR 25, HB 359, HB 361, HB 137**

Judiciary: **HB 270, HB 277, HB 278, HB 279, HB 306, HB 320, HB 322, HB 334, HB 351**

Banking and Insurance: **HB 419**

Health and Welfare: **HB 308, HB 371**

Representative Worthington moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Worthington moved that he be recorded as voting "yea" on **HB 46**. Agreed.

Representative Richardson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richardson moved that he be recorded as voting "yea" on **HB 314**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 169, Representative Nelson; **HB 244**, Representative Lile; **HB 332**, Representatives Collins, Stumbo; **HB 352**, Representative Walker; **HB 421**, Representative P. Clark.

The following members filed requests to have their names withdrawn as co-sponsors of Bills:

HB 358, Representatives Bruce and Altman.

Representative Stumbo announced the following convening schedule for the week of February 10, 1992:

Monday, February 10, 1992, 4:00 p.m.

Tuesday, February 11, 1992, 9:00 a.m.

Thursday, February 13, 1992, 2:00 p.m.

Recess

Representative Stumbo moved that the House recess until the hour of 8:00 p.m., Thursday, February 6, 1992 at which time the House and Senate will convene in Joint Session to receive the Governor's Budget Address. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

Governor Brereton C. Jones addressed the Joint Session of the General Assembly as follows:

BUDGET ADDRESS

FEBRUARY 6, 1992

Three weeks ago I stood before you in this chamber to share the vision I have for our Commonwealth in the coming years. I spoke then of a new spirit that, together, we must generate to move our great state into the 21st century with pride, prosperity, and a renewed dedication to public service. This spirit will be borne of cooperation between our branches of government. It will require much of us as we jointly strive to make the right decisions on behalf of the women, men and children whose interests we are here to serve.

None of these decisions will be more important than the ones we make on our spending priorities for the next two years. Tonight, I want to share with you our administration's budget recommendations for the 1992-94 biennium. These recommendations come at a time when our resources have been severely limited by the national recession. They reflect the reality of revenue projections that show we will have approximately the same amount of money available to spend in the next fiscal year that we are spending this year.

And while our resources remain flat, our obligations continue to grow. Federal and state mandates in education, the environment and health care require hundreds of millions of new dollars that we simply do not have available. As a result, we have many difficult choices to make. We could choose to cut the budgets of all state agencies and tell the children and parents of this state that education reform will have to wait. To balance this budget, we could slash programs for the poor and the needy. We could do just enough to get by and hope for better times. But we are not adopting that approach. The people of Kentucky have elected us to lead, to move forward to a truly progressive society and a robust economy.

If we use hard economic times as an excuse to avoid hard policy decisions, we will have defaulted on our obligation to lead. And that's just not going to happen. The budget I am presenting tonight reflects our best efforts to redirect the spending and the policies of state government. It also reflects and furthers those areas of highest priority for our government: fulfilling the promise of education reform; giving every child a fair start on life; improving access to affordable, quality health care for every Kentuckian; and providing a foundation for economic development in every Kentucky community.

Our plan is predicated on three major principles.

First, there will be no tax increase proposed. We must deal with our problems within our existing tax base.

Second, we will take appropriate, necessary actions to control the cost of government. Our major task lies in balancing the budget in the first year of the biennium. We will use a combination of selective roll backs of salaries, a reduction in the number of employees, and shifts in spending away from the central office in Frankfort and into the field and the direct delivery of services. Massive layoffs will be avoided. But selective cutbacks will be necessary.

Third, we will position our state to take advantage of a better year in 1994—a year that will get us on track again to provide the services, programs, infrastructure and economic opportunity that Kentuckians expect and deserve from their state government.

While we expect 1994 to be a better year, we recognize that the strength of Kentucky's economy will reflect the condition of the national economy. We are committed to working our way through this fiscal challenge. But our task will be easier or harder depending on the actions of the federal government. We're doing what needs to be done in Kentucky. Our budget—while tight—is balanced. And I strongly believe that a change in policy in Washington—a change that will result in a balanced federal budget—is what Kentucky and all states need to ensure long-term prosperity.

We will recommend some bold initiatives in the second year of the biennium. At least two of these will start taking shape tonight but will await full implementation until an extraordinary session of this General Assembly is convened later in the year. These two are a complete restructuring of our health care system and a revitalization of Kentucky's parks system.

As I mentioned earlier, we have had to make several tough choices to obtain the funds necessary to address the highest priorities of government.

We have recommended cuts in most areas of government. We have tried in every case to do this thoughtfully and with due regard for the mission of each agency. I believe that these cuts are manageable. They will, however, challenge every Cabinet secretary and program manager in government. I ask, therefore, that you provide each policy maker with the flexibility necessary to administer a lean, smaller budget. The Cabinet officers and other top administrators will face major challenges in the next two years. They will need to have your support in managing the workforce in the most effective way and in using the funds you provide most productively. We have structured the draft Appropriations Bill for the Executive Branch to reflect the need for both austerity and flexibility.

Unfortunately, we have been forced to suspend some statutory obligations, such as the five percent mandate for state employee salary raises. We have also used every other fund source in government to augment the General Fund—including $29 million in each year of the biennium from road funds to finance part of the State Police budget and to step up efforts by the Revenue Cabinet to collect road fund taxes. We will also recommend that surplus funds generated by certain fees and charges be transferred into the General Fund. In a number of cases, we have incorporated recommendations for organizational realignment in the budget in the expectation that cost savings will result. These actions, in concert, have enabled us to redirect state spending into our highest priority areas. They have also given us the ability to manage our budget better than many of the states suffering similar fiscal and economic difficulties.

As you have heard me say many times, education is my highest priority. We must find the means to move ahead with education reform—even in the midst of this recession. Historic opportunities do not always pick the most convenient times to present themselves. We must act now because the opportunity is before us now. We will not, we cannot, break our covenant on education reform with the children of Kentucky.

Our budget plan has enhanced the most important elements of education reform. There will be no reduction in the basic per-pupil grant to local school districts in the SEEK program in 1993. We will provide sufficient funding in fiscal 1994 for a 3 percent increase in the SEEK base funding. Moreover, we have proposed full funding for the Tier 1 equalization program at a level of nearly $160 million over the next biennium, an increase of more than $100 million above the current biennium. As you know, the Tier 1 program provides state funds to those local school districts that raise additional local revenues to enhance their educational offerings.

These state funds are weighted to provide the greatest assistance to the least affluent school districts. Tier 1, as much as any other program, promotes the dual goals of excellence and equity embodied in our education reform effort.

Our pre-kindergarten program is vital to the long-term success of education reform. If funded and administered properly, this program can give many Kentucky children a fair start on life. With the $33 million provided in fiscal 1993 and the $37 million recommended for 1994, we will be able to serve approximately 80 percent of the eligible at-risk children in the first year of the biennium and 90 percent in the second year.

To increase the availability of social services and health services to those school children most in need, we have provided for $48.3 million over the biennium for the family and youth services centers. Our plan will allow us to maintain the other important elements of the education reform package. Not every program has been funded at the requested levels, but every program has been preserved. This has been done at a time when other states are cutting their education efforts. Three examples warrant mentioning: the technology program, the student assessment program and the school rewards fund.

Currently, $48 million is available for the design and implementation of a long-range technology plan for elementary and secondary education. Our budget will preserve that funding and increase it by $15 million over the next biennium to provide a $63 million fund for the technology plan. While this amount of new funding is below the requested level, it evidences a significant commitment to a program with tremendous long-term potential.

Our budget allows for full funding of the biennial request for the student assessment program. Accurately measuring how well our children are learning is vital to continued educational progress. Under our plan, $11.7 million will be directed toward that effort in the next biennium. The current funding of $30 million for the school rewards program will be preserved. Moreover, we propose adding $15 million to that trust fund during the next biennium. The other state programs in elementary and secondary education have been maintained. While all do not reflect the requested levels, sufficient funds will be available to ensure continued progress.

We have also preserved the funding levels for vocational education. Additional funding of $5 million for staffing and operations in fiscal year 1994 will allow us to take full advantage of the eight new or expanded advanced technical and vocational schools you authorized in the 1990 Session.

Our education reform efforts will not be complete if we ignore the critical role libraries play in supporting our teachers and students. Indeed, one of the major goals of reform is to make students more independent in their learning and to prepare them for a lifetime of self-sufficiency and individual productivity. To this end, I am increasing state aid to our public libraries 12.5 percent in 1993 and an additional 11 percent in 1994. For the first time since this body adopted the state aid reform bill in 1986, the Executive Budget will meet the fifty three cents per capita funding formula established by statute.

We have also recommended full funding of the state contribution to the teachers' retirement fund and full funding of the supplemental contribution required by statute. We have asked that a portion of that supplemental contribution be used to provide necessary funding for the medical insurance program for retired teachers.

Our commitment to education and education reform must not diminish. Our recommendations will enable us to move to the next step in education reform. And they will ensure that Kentucky's education system remains a model for the nation.

To enable us to fund our education reform efforts in elementary and secondary education, we have had to recommend that the budgets of our four-year institutions be reduced by five percent in fiscal year 1993. This decision is personally painful to me because of my involvement, interest and commitment in higher education. It is, however, the right decision under the circumstances. And I will do everything in my power to more than make up for this cut in the second biennium of our administration.

Our four-year institutions received increases in their state funding of 22.1 percent during the 1990-92 biennium. Even after budget cutbacks in the prior administration, state funding for these institutions increased by 15.2 percent during this biennium, While I know it will not be easy, I also know that the four-year schools have management flexibility and other sources of funds that should help them through the next fiscal year. Our budget plan recommends a restoration of a portion of those reductions through a three percent across-the-board spending increase in fiscal 1994.

Despite the limited money available for higher education, we must press ahead with our accountability and assessment efforts. Funding of $2.4 million has been provided to the Council on Higher Education for this effort during the next biennium. This must be a cooperative effort with the higher education community. For this reason, a significant portion of this funding will be provided to the individual campuses in the form of grants to implement a system of assessing each institution's progress in establishing and meeting their goals in instruction, research, and public service.

Our budget plan sets forth a recommendation that community college funding be preserved intact in fiscal year 1993 and increased by three percent in fiscal 1994. Our community college system has experienced a remarkable 109 percent growth in enrollment during the last ten years. Many of those new students have been "non-traditional" students who were seeking additional education to help them find or keep jobs. The community colleges also prepare thousands of students annually to continue their education at one of our four-year universities. They are truly the peoples' colleges and are doing a great job of making educational opportunities available across our Commonwealth.

We cannot have a truly progressive society unless government helps those who are least able to help themselves. We cannot say that we are providing true economic opportunity for all unless government assists those who want to work their way out of poverty. That is why we have devoted special attention to the budget for the Cabinet for Human Resources. The General Fund budget of the cabinet will, according to our budget plan, increase by 20.9 percent over the biennium.

Other states experiencing our national economic turmoil have reduced their budget deficits or balanced their budgets by slashing spending on health and human service programs. Such thinking is, as we know, insensitive and shortsighted. Many programs and services in this cabinet are preventive in nature and actually save us money in the long run. That is why it is in our best interests to preserve and protect them.

To obtain sufficient resources for health and human services programs, we have cut budgets for administration and related services within the Cabinet for Human Resources. We have eliminated positions in central offices to enable us to add more funding for beneficial programs and to hire more people in the field to provide needed assistance.

A task force I will announce soon will study our healthcare system and make recommendations to me that will form the basis of legislation to be proposed to you in an extraordinary session. Health care access and preventive health care measures will be two important issues for that group. Our budget plan for health services focuses on those issues.

Medical experts tell us that preventive health care is perhaps the most effective way to promote good health at the lowest cost. We have recommended that $3 million in new funds over the biennium be devoted to preventive care. That new money will enable our local health departments to expand their programs for preconceptional care; well-child care; nutrition services; family planning; immunization; breast and cervical cancer and other maternal and child health programs.

I have already restored $2.1 million of budget cuts imposed by the previous administration in the area of health services and I want to thank Representative Tom Burch for bringing to my attention the impact of those cuts. With that funding restored, assistance can be preserved for AIDS patients, immunization programs can be preserved fully; grants can be maintained for local emergency medical services; newborn intensive care programs at UK and U of L can be preserved as well as the indigent prenatal program and the children and youth program at U of L; and the high-risk infant program can stay intact.

The Medical card is the passport for the poorest Kentuckians to secure entry into the health care system. It is estimated by the end of the biennium that approximately half a million people will be enrolled in the Medicaid program. Medicaid will require a commitment of more than $915 million in state funds to maintain services at these current levels over the next two years. Although it was difficult with our present revenue picture to find these dollars, I could not turn my back on those Kentuckians who rely on their state government for medical care. I found the dollars and can assure all recipients that we will continue to provide the full array of Medicaid services to those eligible for medical assistance. In addition, for the first time all medically necessary services identified in preventive health checkups will be covered by the Medicaid Plan.

We have recommended that payments to hospitals under our disproportionate share provider assessment program be reduced to enable us to have sufficient resources to preserve our Medicaid program intact. Without these additional funds our Medicaid program could not be continued without reductions in benefits, which I just could not tolerate.

I am also going to ask that those hospitals receiving additional Medicaid payments through the disproportionate share plan provide outpatient services as well as the inpatient services they currently provide free-of-charge for those Kentuckians who do not qualify for Medicaid, whose incomes are 100 percent of poverty or below. This should assure that indigent Kentuckians will be afforded the full array of services provided through hospitals.

The mentally ill have all too often been the most neglected patient population in the health care system. Programs serving these patients generally lag behind the rest of health care in the good times and are the most vulnerable to cuts when dollars are scarce. We have restored $2.8 million of current year budget cuts in the mental health system.

State funding for mental health and mental retardation will increase from $104 million to $124 million over the next biennium. Of that amount, $2 million in both years of the biennium will be devoted to expansion of the contracts with our 14 regional community health comprehensive care centers. One million dollars from the general fund will be devoted to staff expansion at our residential facilities. Our rape crisis center program will be expanded to every region of our Commonwealth through an additional $676,000 in funding over the biennium. We will provide $5.1 million in fiscal year 1993 and $10.2 million of general funds the following year to enable new group homes and other new facilities to be opened and maintained during the next biennium.

We intend to provide strong support for those who are seeking to work their way out of poverty. Our educational and job training and placement efforts under the auspices of the Federal Family Support Act will be expanded from 32 to 92 counties. We will not cut AFDC benefits in this time of economic trouble. Moreover, we have recommended increased funding to provide for continuation of our state welfare reform effort that allows those welfare recipients who gain employment to retain medical coverage and income supplementation while they move toward self-sufficiency.

Domestic stress increases with economic difficulties. Thus, expansion of programs that deal with and prevent that stress deserve special attention now. Our budget plan calls for an expansion of $500,000 in fiscal year 1993 and $750,000 in fiscal year 1994 for spouse abuse centers. We have recommended that our Family Preservation program be expanded by $2.6 million over the biennium. Under our plan, Intensive Family Based Services programs would be expanded by $500,000 in each year of the biennium. We have also asked for new spending in the amount of $1,259,000 to expand the protective service social worker complement by 50. This will increase greatly our ability to respond promptly to reported child abuse.

If we are to have enough money over the long-term to operate government and create a society in which all have true economic opportunity, we must spare no effort to create jobs. We cannot wait on Washington to act. We must help ourselves now.

I am proposing a $100 million bond issue for your consideration for the second year of the next biennium. The proceeds of this issue will be devoted to major capital construction improvements at our state parks and recreation areas. Our first task is to study our tourism and recreation needs in every area of the Commonwealth. Based on that study, I will then recommend specific appropriations for particular projects later this year in an extraordinary session.

It is important that any new parks, lodges, and other attractions considered for addition to the state parks system be solid investments that have a clear chance to be successful and profitable. We cannot afford to waste this opportunity. There is no sense in spending our resources on projects that will simply require a perpetual public subsidy. In addition, we must take advantage of this opportunity to address the need to upgrade and renovate existing park facilities which have deteriorated over the past thirty years. This is not a time for massive expansion—but a time to return to the highest standards of quality.

These funds will enable us once again to have the finest state park and recreation system in the United States. More important, these funds will be used to create jobs—good-paying construction jobs to be followed by permanent positions at our parks and recreation areas. Of course, more important are the off-site economic benefits that a fine state park can anchor. This bond issue will enable us to build projects like the golf course at Jenny Wiley State Park; the campground and boating facilities at Yatesville Lake; the lodge at Kincaid Lake State Park; the beach at Paintsville Lake; and the improvements at Ben Hawes State Park.

There are many Kentucky communities that do not have the advantage of being the home of a state park or a large factory. Those communities need to build a foundation for economic development. And they need money to develop infrastructure and site locations to attract and keep businesses. Nowhere is this need greater than in our coal counties. These counties are facing the immediate challenge to diversify their economic base. They need assistance, and they need it now—not years from now. That is why I am committed to doing everything possible to return 50 percent of the severance tax revenues to coal counties to be used for infrastructure needs. And that is why I want to begin the process right now. Our budget plan proposes increasing from 12% to 15% the amount of coal severance tax funds set aside for coal counties in the first year of the biennium. And we are calling for an increase to 18% the following year. This amounts to more than $15 million in new revenues for the coal counties in the next biennium.

It is important that we get started on this program now—even under our current financial conditions. We cannot afford to wait to begin. For many years, our coal-producing counties have experienced far worse conditions than we now face as a Commonwealth. The true unemployment in our Appalachian counties averages in excess of 30%, with some of those counties have a true unemployment rate in excess of 50%. And our Western Kentucky coal counties are just as deserving—and are hurting just as much. We must understand the plight of a young person in a coal county who must leave home and look elsewhere for a good job and a bright future. We must act now to create a new economy for our coal counties. This means more than simply providing additional funding under the existing formula for coal tax distribution. The additional funds must be targeted to infrastructure and economic development. I will support legislation you are considering to do just that I am proud to recommend this very important step.

Communities throughout our Commonwealth also need help in creating that foundation for economic development. Government is an essential partner with the private sector and with local communities in making strategic investments in people, institutions and infrastructure to create and maintain jobs.

I am recommending $30 million in new bonding authority for the Kentucky Infrastructure Authority to enable it to provide the necessary financial assistance to communities interested in laying this foundation for creating and preserving jobs. This will match over $100 million in federal funds and allow us to extend vital water, sewer, and other fundamentals of economic development into more communities.

We all recognize how important transportation is to economic development. Our budget proposes that an additional $150 million of bonds be sold in fiscal year 1993 to continue the progress on high priority road projects initiated during the 1990 Session. You and I have made a commitment to the people of Kentucky to build these roads and, together, we will honor it.

We will also take full advantage of the new Federal Highway Act and the additional funds Kentucky can attract. We will maximize these funds and continue to match every federal dollar that we can reasonably get. We will continue an ambitious resurfacing and maintenance program to take care of our existing network of highways and bridges. We will, however, cut back on unnecessary mowing to allow more money to be spent directly on maintenance and reconstruction.

Because of our fiscal situation, we must be judicious in the use of bond funding for capital projects. Our budget plan sets forth reasonable capital construction recommendations. These recommendations are directed toward maintenance of our current physical plant and construction of new facilities that have already been partially funded or that have significant local and private support. We are recommending funding in fiscal 1994 for the next phase of the expansion of the south wing of the Kentucky Fair and Exposition Center at a cost of approximately $25 million. We also recommend an expenditure of $8 million in addition to the $10 million already authorized for the regional events center at Murray.

In addition, we have requested that $12.5 million be appropriated for waterfront development in Louisville. The availability of these funds is contingent upon our receiving commitments of at least $12.5 million in private contributions toward that effort. Because of strong local financial commitments, we have recommended that $1 million be appropriated in fiscal 1994 for design work for the Northern Kentucky Convention Center.

This is not the time for a large number of new building projects in higher education. We have recommended authorization for three new projects only. We request that the University of Kentucky be authorized to spend approximately $12 million of privately raised funds in this biennium to begin the Commonwealth Library project at the Lexington campus. The library will be truly a statewide asset and the impressive amount of private funds already raised by the University of Kentucky shows significant support for this project. I recognize that there are many other worthy projects, such as the Sanders-Brown Center on Aging, that need and deserve our support. Unfortunately, we will not be able to move ahead on those until some later time.

We have recommended that design funds be made available in fiscal 1994 for a new building at the Hazard Community College and for a new classroom building at Ashland Community College.

We have also recommended that $30 million worth of borrowing authority be granted to the School Facilities Construction during the biennium.

One of the fastest growing areas of the state budget for more than a decade has been corrections. Over the next biennium it is estimated that we will have approximately a 16 percent increase in our prison population. This translates into 1,680 additional felons for which the Commonwealth will be responsible. The budget I have proposed will provide for this projected growth. We will use a combination of methods to house felons involving existing institutions, greater reliance on county jails that have available space and meet proper standards, and private contract facilities. We will design Phase II of the Muhlenberg County Prison and plan to open Phase I near the end of the biennium.

As you know, I am recommending the consolidation of the Corrections Cabinet into the Justice Cabinet. I believe this will save administrative costs and provide better direction for our criminal justice efforts. In doing so, I intend to preserve our commitment to the Kentucky State Police. Despite the fiscal situation, we will not reduce the ranks of the State Police officers at all. In fact, the budget cut in fiscal year 1993 for State Police will be held to just 2.5 percent. I am confident that the service level provided by the State Police and the entire Justice Cabinet will continue in its present excellent fashion.

We also cannot diminish our level of support for the environment. This budget funds and supports the continuation of the ambitious Environmental Management Plan begun in 1990. It maintains our support for surface mining reclamation and enforcement consistent with the National Wildlife Federation Settlement Agreement. The budget also begins implementation of our efforts to meet the Clean Air Act mandates required by federal law. To do so, we will propose the enactment of a fee structure to allow proper phasing-in of the increased costs to both the Commonwealth and private industry. As you know, we must be in full compliance by 1995.

As I noted in my State of the Commonwealth address, one of my main priorities is governmental reform. The most important step we can take in this session to further the cause of good government is to adopt a campaign finance law that will provide for public funding for governor and lieutenant governor campaigns.

I expect a tough new campaign finance bill, with public financing, to be introduced within a few days. I intend to work on behalf of that bill wholeheartedly. I am confident that, with your support, we can enact that bill this session. Our budget plan includes an appropriation of $3 million in fiscal 1994 to begin that system of public financing, recognizing that the need could vary depending on the content of the legislation and the number of candidates who participate.

Certainly one of the most important areas of the budget for our government is our personnel policy. We have worked as hard as we could during our brief time in office to effect savings in government.

Have we been perfect. Of course not. I don't need to remind anyone in this chamber of a well-publicized incident. But I do want to let you know that we have corrected this misstep. And I want to share with you some examples of success. We are cutting the non-merit overhead across the board. In the Finance Cabinet, we have cut the number of upper-level non-merit jobs by almost 16% compared to a year ago. And we are down in Tourism overhead by almost 17%. And the reduction in the Human Resources Cabinet is 15%. Our approach is saving Kentucky taxpayers millions of dollars. And we are just beginning.

It is our goal that, by the end of the current fiscal year, we will reduce the number of non-merit principal assistants in our agencies by 50%. I believe this is appropriate and very much in keeping with our commitment to redirecting the priorities and resources of state government to programs that serve the citizens of this Commonwealth.

As I mentioned earlier, additional selective cutbacks will in all probability be necessary because of our financial circumstances. Wherever possible, we will achieve these reductions through attrition. But it is very important that our cabinet secretaries be given the flexibility to identify and eliminate positions that are unnecessary to the missions of their agencies. This flexibility will also help them direct our resources to the areas of greatest need. I ask for your assistance in giving our managers the tools they need to do the best possible job for our taxpayers.

We have chosen a different approach to our pay policy for the next biennium.

Regrettably, the salaries of those employees making more than $50,000 will be cut by two percent in the fiscal year beginning July 1, 1992. I am also inviting participation in this aspect of our salary policy by other officials in state agencies not directly covered by our central state personnel system.

Sacrifices are necessary, and I believe that those who make the most are best able to bear the burden. Every member of my cabinet has already agreed to take the two percent pay cut in fiscal 1993. And, of course, I will also take that cut next year.

Full-time state workers who currently are paid less than $20,000 will receive a two percent raise in fiscal 1993. These employees and all others will receive a three percent raise the following year under our plan. We will continue to provide support for the health insurance benefit package for state employees and school system personnel. We are recommending continuation of the current employee contribution rate to the state employees retirement system.

I recognize that all of us would prefer to be serving our state in time of greater economic prosperity. I predict that we will have that opportunity in the next few years. But the reality of the present makes our cooperative relationship even more important. We can—and we must—work together, Democrats and Republicans, to bring our Commonwealth through these challenging times. I know that we will do just that because—despite our lack of dollars—we do not suffer from a poverty of leadership in Kentucky. I know that we have the shared will and commitment to get the job done right.

Thank you.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Introduction of Bills and Resolutions

HB 466, by Representatives B. Smith and Farrow: AN ACT relating to liability of lender-owners and subsequent purchasers for contamination or pollution of property.

HB 467, by Representatives Blandford, Richards, Rapier, Worthington, Long and Clarke: AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the government of the Commonwealth of Kentucky.

HB 468, by Representatives J. Clarke, Stumbo, Blandford, Rapier and Worthington: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Report of Committees

The Committee on State Government reported **HB 16**, with Committee Substitute and Committee Amendments attached thereto, **HB 106**, with Committee Substitute, and **HB 233** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to open meetings of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the basic policy of KRS 61.805 to 61.850 is that the formation of public policy is public business and shall not be conducted in secret and the exceptions provided for by Section 3 of this Act or otherwise provided for by law shall be strictly construed, even though open meetings may cause inconvenience, embarrassment, or a loss of efficiency to public officials or others.

Section 2. KRS 61.805 is amended to read as follows:

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, regardless of where the meeting is held, and whether regular or special and information or casual gatherings held in anticipation of or in conjunction with a regular or special meetings;

(2) "Public agency" means*:*

(a) Every state or local board, commission, and authority;

(b) Every state or local legislative board, commission, and committee;

(c) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(d) Every entity created by state or local statute, executive order, ordinance, resolution, or other legislative act;

(e) Any body created by state or local authority in the legislative or executive branch of government;

(f) Any entity when the majority of its governing body is appointed by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (g), or (h) of this subsection, a member or employee of a "public agency," a state or local officer, or any combination thereof;

(g) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency established or created by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (f), or (h) of this subsection; and

(h) Any interagency body of two (2) or more public agencies where each "public agency" is defined in paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection [~~any state legislative, executive, administrative or advisory board, commission, committee, policy making board of an institution of education or other state agency which is created by or pursuant to statute or executive order (other than judicial or quasi-judicial bodies); any county, city, school district, special purpose district boards, public commissions, councils, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies~~];

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body***; and***

(4) "Member" means a member of the governing body of the public agency and does not include employees or licensees of the agency.

Section 3. KRS 61.810 is amended to read as follows:

(1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by ***the*** [~~such~~] agency, ***shall*** [~~are declared to~~] be public meetings, open to the public at all times, except for the following:

(a)[~~(1)~~] Deliberations for decisions of the Kentucky Parole Board***;***[~~.~~]

(b)[~~(2)~~] Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency***;***[~~.~~]

(c)[~~(3)~~] Discussions of proposed or pending litigation against or on behalf of the public agency***;***[~~.~~]

(d)[~~(4)~~] Grand and petit jury sessions***;***[~~.~~]

(e)[~~(5)~~] Collective bargaining negotiations between public employers and their employees or their representatives***;***[~~.~~]

(f)[~~(6)~~] Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested.[~~, provided that~~] This exception [~~is designed to protect the reputation of individual persons and~~] shall not be interpreted to permit discussion of general personnel matters in secret***;***[~~.~~]

(g)[~~(7)~~] Meetings between public agencies and industrial prospects***;***[~~.~~]

(h)[~~(8)~~] State cabinet meetings and executive cabinet meetings***;***[~~.~~]

(i)[~~(9)~~] Committees of the General Assembly other than standing committees***;***[~~.~~]

(j)[~~(10)~~] ***Deliberations of quasi-judicial bodies regarding individual adjudications, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;***

(k) Meetings which federal or state law specifically require to be conducted in privacy***; and***[~~.~~]

(l)[~~(11)~~] Meetings which the Constitution provides shall be held in secret.

(2) Any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section.

Section 4. KRS 61.815 is amended to read as follows:

(1) Except ***as provided in subsection (2) of this section*** [~~those public agencies excluded under KRS 61.810(1), (3), (4), (6) but only so far as it relates to students, KRS 61.810(7), (8), (9), (10) and (11)~~], the following requirements shall be met as a condition for conducting closed sessions authorized by KRS 61.810:

(a)[~~(1)~~] Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, [~~and~~] the reason for the closed session, ***and the specific provision of Section 3 of this Act authorizing the closed session***;

(b)[~~(2)~~] Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(c)[~~(3)~~] No final action may be taken at a closed session; ***and***

(d)[~~(4)~~] No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

(2) Public agencies identified in paragraphs (a), (c), (d), (f) but only so far as (f) relates to students, (g), (h), (i), (j), (k), and (l) of subsection (1) of Section 3 of this Act shall be excluded from the requirements of subsection (1) of this section.

Section 5. KRS 61.820 is amended to read as follows:

All meetings of all public agencies of this state, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public, and ***all public agencies*** shall provide for a schedule of regular meetings by ordinance, resolution, by laws or by whatever other means may be required for the conduct of business of that public agency.[~~, and~~] ***The*** [~~said~~] schedule of regular meetings shall be made available to the public.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61.805 TO 61.850 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (5) of this section, special meetings shall be held in accordance with the provisions of subsections (2), (3), and (4) of this section.

(2) The presiding officer or a majority of the members of the public agency may call a special meeting.

(3) The public agency shall provide written notice of the special meeting. The notice shall consist of the date, time, and place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.

(4)(a) As soon as possible, written notice shall be delivered personally or mailed to every member of the public agency as well as each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be calculated so that it shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform media organizations that they will have to submit a new written request or no longer receive written notice of special meetings until a new written request is filed.

(b) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in one other conspicuous place in the county where the meeting

will take place. The notice shall be calculated so that it shall be posted at least twenty-four (24) hours before the special meeting.

(5) In the case of an emergency which prevents compliance with subsections (3) and (4) of this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (2) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to subsection (4)(a) of this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with subsections (3) and (4) of this section. These comments shall appear in the minutes. Discussions and action at the emergency meeting shall be limited to the emergency for which the meeting is called.

SECTION 7. A NEW SECTION OF KRS 61.805 TO 61.850 IS CREATED TO READ AS FOLLOWS:

(1) If a person enforces KRS 61.805 to 61.850 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of KRS 61.805 to 61.850. The complaint shall state the circumstances which constitute an alleged violation of KRS 61.805 to 61.850 and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision. If the public agency makes efforts to remedy the alleged violation pursuant to the complaint, efforts to remedy the alleged violation shall not be admissible as evidence of wrongdoing in an administrative or judicial proceeding. An agency's response denying, in whole or in part, the complaint's requirements for remedying the alleged violation shall include a statement of the specific statute or statutes supporting the public agency's denial and a brief explanation of how the statute or statutes apply. The response shall be issued by the presiding officer, or under his authority, and shall constitute final agency action.

(2) If a complaining party wishes the Attorney General to review a public agency's denial, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written denial. If the public agency refuses to provide a written denial, a complaining party shall provide a copy of the written request. The Attorney General shall review the request and denial and issue within ten (10) days, excepting Saturdays, Sundays, and legal holidays, a written decision which states whether the agency violated the provisions of KRS 61.805 to 61.850. In arriving at the decision, the Attorney General may request additional documentation from the agency and the burden of proof in sustaining the action complained of shall rest with the agency. On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who filed the complaint.

(3) (a) If a public agency agrees to remedy an alleged violation pursuant to subsection (1) of this section, and the person who submitted the written complaint pursuant to subsection (1) of this section believes that the agency's efforts in this regard are inadequate, the person may complain to the Attorney General.

(b) The person shall provide to the Attorney General:

1. The complaint submitted to the public agency;

2. The public agency's response; and

3. A written statement of how the public agency has failed to remedy the alleged violation.

(c) The adjudicatory process set forth in subsection (2) of this section shall govern as if the public agency had denied the original complaint.

(4) (a) A party shall have ten (10) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the ten (10) day time limit shall be treated as if it were an action brought under Section 8 of this Act.

(b) If an appeal is not filed within the ten (10) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred.

(5) A public agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding enforcement of KRS 61.805 to 61.850.

SECTION 8. A NEW SECTION OF KRS CHAPTER 61.805 to 61.850 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred shall have jurisdiction to enforce the provisions of KRS 61.805 to 61.850, as they pertain to that public agency, by injunction or other appropriate order on application of any person.

(2) In order for the Circuit Courts of this Commonwealth to exercise their jurisdiction to enforce the provisions of KRS 61.805 to 61.850, it shall not be necessary for a complaining party to have complied with any of the provisions of Section 7 of this Act.

(3) In any such action, the court shall determine the matter de novo, and the burden of proof shall be on the public agency to sustain its action.

(4) Except as otherwise provided by law or rule of court, proceedings arising under this section take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any rule, resolution, regulation, ordinance, or other formal action of a public agency without substantial compliance with the requirements of KRS 61.810, 61.815, 61.820, and Section 6 of this Act shall be voidable by a court of competent jurisdiction.

(6) Any person who prevails against any agency in any action in the courts regarding a violation of KRS 61.805 to 61.850 may be awarded costs, including reasonable attorneys' fees, incurred in connection with the legal action. In addition, it shall be within the discretion of the court to award the person an amount not to exceed one hundred dollars ($100.00) for each instance in which the court finds a violation. Attorneys' fees, costs, and awards under this subsection shall be paid by the agency responsible for the violation.

Section 9. The following KRS sections are repealed:

61.825 Requirements for holding special meetings.

61.830 Action voidable for noncompliance.

61.845 Enforcement.

The Committee Substitute to **HB 16** is as follows:

HB 16, AN ACT relating to open meetings of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

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Section 2. KRS 61.805 is amended to read as follows:

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(2) "Public agency" means*:*

(a) Every state or local government board, commission, and authority;

(b) Every state or local legislative board, commission, and committee;

(c) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(d) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(e) Any body created by state or local authority in the legislative or executive branch of government;

(f) Any entity when the majority of its governing body is appointed by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (g), or (h) of this subsection, a member or employee of a "public agency," a state or local officer, or any combination thereof;

(g) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established or created by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (f), or (h) of this subsection; and

(h) Any interagency body of two (2) or more public agencies where each "public agency" is defined in paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection [~~any state legislative, executive, administrative or advisory board, commission, committee, policy making board of an institution of education or other state agency which is created by or pursuant to statute or executive order (other than judicial or quasi-judicial bodies); any county, city, school district, special purpose district boards, public commissions, councils, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies~~];

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body***; and***

(4) "Member" means a member of the governing body of the public agency and does not include employees or licensees of the agency.

Section 3. KRS 61.810 is amended to read as follows:

(1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by ***the*** [~~such~~] agency, ***shall*** [~~are declared to~~] be public meetings, open to the public at all times, except for the following:

(a)[~~(1)~~] Deliberations for decisions of the Kentucky Parole Board***;***[~~.~~]

(b)[~~(2)~~] Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency***;***[~~.~~]

(c)[~~(3)~~] Discussions of proposed or pending litigation against or on behalf of the public agency***;***[~~.~~]

(d)[~~(4)~~] Grand and petit jury sessions***;***[~~.~~]

(e)[~~(5)~~] Collective bargaining negotiations between public employers and their employees or their representatives***;***[~~.~~]

(f)[~~(6)~~] Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested.[~~, provided that~~] This exception [~~is designed to protect the reputation of individual persons and~~] shall not be interpreted to permit discussion of general personnel matters in secret***;***[~~.~~]

(g)[~~(7)~~] ***Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;*** [~~Meetings between public agencies and industrial prospects.~~]

(h)[~~(8)~~] State cabinet meetings and executive cabinet meetings***;***[~~.~~]

(i)[~~(9)~~] Committees of the General Assembly other than standing committees***;***[~~.~~]

(j)[~~(10)~~] ***Deliberations of quasi-judicial bodies regarding individual adjudications, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;***

(k) Meetings which federal or state law specifically require to be conducted in privacy***; and***[~~.~~]

(l)[~~(11)~~] Meetings which the Constitution provides shall be held in secret.

(2) Any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section. Nothing in this subsection shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.

Section 4. KRS 61.815 is amended to read as follows:

(1) Except ***as provided in subsection (2) of this section*** [~~those public agencies excluded under KRS 61.810(1), (3), (4), (6) but only so far as it relates to students, KRS 61.810(7), (8), (9), (10) and (11)~~], the following requirements shall be met as a condition for conducting closed sessions authorized by KRS 61.810:

(a)[~~(1)~~] Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, [~~and~~] the reason for the closed session***, and the specific provision of Section 3 of this Act authorizing the closed session***;

(b)[~~(2)~~] Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(c)[~~(3)~~] No final action may be taken at a closed session; ***and***

(d)[~~(4)~~] No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

(2) Public agencies identified in paragraphs (a), (c), (d), (f) but only so far as (f) relates to students, (g), (h), (i), (j), (k), and (l) of subsection (1) of Section 3 of this Act shall be excluded from the requirements of subsection (1) of this section.

Section 5. KRS 61.820 is amended to read as follows:

All meetings of all public agencies of this state, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public, and ***all public agencies*** shall provide for a schedule of regular meetings by ordinance, resolution, by laws or by whatever other means may be required for the conduct of business of that public agency.[~~, and~~] ***The*** [~~said~~] schedule of regular meetings shall be made available to the public.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61.805 TO 61.850 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (5) of this section, special meetings shall be held in accordance with the provisions of subsections (2), (3), and (4) of this section.

(2) The presiding officer or a majority of the members of the public agency may call a special meeting.

(3) The public agency shall provide written notice of the special meeting. The notice shall consist of the date, time, and place of the special meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.

(4)(a) As soon as possible, written notice shall be delivered personally or mailed to every member of the public agency as well as each media organization which has filed a written request, including a mailing address, to receive notice of special meetings. The notice shall be calculated so that it shall be received at least twenty-four (24) hours before the special meeting. The public agency may periodically, but no more often than once in a calendar year, inform media organizations that they will have to submit a new written request or no longer receive written notice of special meetings until a new written request is filed.

(b) As soon as possible, written notice shall also be posted in a conspicuous place in the building where the special meeting will take place and in one other conspicuous place in the county where the meeting will take place. The notice shall be calculated so that it shall be posted at least twenty-four (24) hours before the special meeting.

(5) In the case of an emergency which prevents compliance with subsections (3) and (4) of this section, this subsection shall govern a public agency's conduct of a special meeting. The special meeting shall be called pursuant to subsection (2) of this section. The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request pursuant to subsection (4)(a) of this section, and the public of the emergency meeting. At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with subsections (3) and (4) of this section. These comments shall appear in the minutes. Discussions and action at the emergency meeting shall be limited to the emergency for which the meeting is called.

SECTION 7. A NEW SECTION OF KRS 61.805 TO 61.850 IS CREATED TO READ AS FOLLOWS:

(1) If a person enforces KRS 61.805 to 61.850 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of KRS 61.805 to 61.850. The complaint shall state the circumstances which constitute an alleged violation of KRS 61.805 to 61.850 and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision. If the public agency makes efforts to remedy the alleged violation pursuant to the complaint, efforts to remedy the alleged violation shall not be admissible as evidence of wrongdoing in an administrative or judicial proceeding. An agency's response denying, in whole or in part, the complaint's requirements for remedying the alleged violation shall include a statement of the specific statute or statutes supporting the public agency's denial and a brief explanation of how the statute or statutes apply. The response shall be issued by the presiding officer, or under his authority, and shall constitute final agency action.

(2) If a complaining party wishes the Attorney General to review a public agency's denial, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written denial. If the public agency refuses to provide a written denial, a complaining party shall provide a copy of the written request. The Attorney General shall review the request and denial and issue within ten (10) days, excepting Saturdays, Sundays, and legal holidays, a written decision which states whether the agency violated the provisions of KRS 61.805 to 61.850. In arriving at the decision, the Attorney General may request additional documentation from the agency and the burden of proof in sustaining the action complained of shall rest with the agency. On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who filed the complaint.

(3) (a) If a public agency agrees to remedy an alleged violation pursuant to subsection (1) of this section, and the person who submitted the written complaint pursuant to subsection (1) of this section believes that the agency's efforts in this regard are inadequate, the person may complain to the Attorney General.

(b) The person shall provide to the Attorney General:

1. The complaint submitted to the public agency;

2. The public agency's response; and

3. A written statement of how the public agency has failed to remedy the alleged violation.

(c) The adjudicatory process set forth in subsection (2) of this section shall govern as if the public agency had denied the original complaint.

(4) (a) A party shall have ten (10) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the ten (10) day time limit shall be treated as if it were an action brought under Section 8 of this Act.

(b) If an appeal is not filed within the ten (10) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred.

(5) A public agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding enforcement of KRS 61.805 to 61.850.

SECTION 8. A NEW SECTION OF KRS CHAPTER 61.805 to 61.850 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred shall have jurisdiction to enforce the provisions of KRS 61.805 to 61.850, as they pertain to that public agency, by injunction or other appropriate order on application of any person.

(2) A person alleging a violation of the provisions of KRS 61.805 to 61.850 shall not have to exhaust his remedies under Section 7 of this Act before filing suit in a Circuit Court.

(3) In an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to subsection (4)(a) of Section 7 of this Act, the court shall determine the matter de novo. All other appeals shall be prohibited. In an original action or an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to subsection (4)(a) of Section 7 of this Act, the burden of proof shall be on the public agency.

(4) Except as otherwise provided by law or rule of court, proceedings arising under this section take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any rule, resolution, regulation, ordinance, or other formal action of a public agency without substantial compliance with the requirements of KRS 61.810, 61.815, 61.820, and Section 6 of this Act shall be voidable by a court of competent jurisdiction.

(6) Any person who prevails against any agency in any action in the courts regarding a violation of KRS 61.805 to 61.850 may be awarded costs, including reasonable attorneys' fees, incurred in connection with the legal action. In addition, it shall be within the discretion of the court to award the person an amount not to exceed one hundred dollars ($100.00) for each instance in which the court finds a violation. Attorneys' fees, costs, and awards under this subsection shall be paid by the agency responsible for the violation.

Section 9. The following KRS sections are repealed:

61.825 Requirements for holding special meetings.

61.830 Action voidable for noncompliance.

61.845 Enforcement.

The Committee Amendment No. 1 to the Committee Substitute to **HB 16** is as follows:

Amend printed copy of **HB 16/HCS** on page 1, line 8, by placing a period after "***construed***" and by deleting the remainder of line 8 following "***construed***"; and

On page 1, by deleting lines 9 and 10 in their entirety.

The Committee Amendment No. 2 to the Committee Substitute to **HB 16** is as follows:

Amend printed copy of **HB 16/HCS** on page 10, line 24, by deleting "***and the burden of proof in***"; and

On page 10, by deleting line 25 in its entirety; and

On page 10, by deleting "***agency***"; and

On page 12, by deleting lines 23 through 26 in their entirety.

The Committee Amendment No. 3 to the Committee Substitute to **HB 16** is as follows:

Amend printed copy of **HB 16/HCS** on page 8, line 1, after the word "***personally***" by inserting "***, transmitted by facsimile machine,***".

HB 106, AN ACT relating to open records of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by Section 5 of this Act or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.

Section 2. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884, ***unless the context requires otherwise***:

(1) "Public agency" means*:*

(a) Every state or local officer;

(b) Every state or local department, division, bureau, board, commission, and authority;

(c) Every state or local legislative board, commission, committee, and officer;

(d) Every county and city governing body, council, school district board, and municipal corporation;

(e) Every state or local court or judicial agency;

(f) Every entity created by state or local statute, executive order, ordinance, resolution, or other legislative act;

(g) Any body created by state or local authority in any branch of government;

(h) That part of an entity funded by state or local authority to carry out a governmental function;

(i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j) or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof.

(j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency established or created by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and

(k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection [~~every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority~~];

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned ***or maintained*** by ***or for an entity referred to in subsection (1)(h) of this section*** [~~a private person or corporation~~] that are not related to ***the governmental function*** [~~functions, activities, programs or operations~~] funded by state or local authority;

(3) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control; and (4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

Section 3. KRS 61.872 is amended to read as follows:

(1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Any person shall have the right to inspect public records [~~during the regular office hours of the public agency~~]. The official custodian may require written application describing the records to be inspected. ***The application shall be hand delivered, mailed, or sent via facsimile to the public agency.***

(3) ***A person may inspect the public records:***

(a) During the regular office hours of the public agency; or

(b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to the person after he precisely describes the public records which are readily available within the public agency.

(4) If the person to whom the application is directed does not have custody or control of the public record requested, such person shall so notify the applicant and shall furnish the name and location of the custodian of the public record, if such facts are known to him.

(5)[~~(4)~~] If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately so notify the applicant and shall designate a place, time and date, for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection.

(6)(5) If the application places an unreasonable burden in producing voluminous public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records ***or mail copies thereof***. However, refusal under this section ***shall*** [~~must~~] be sustained by clear and convincing evidence.

Section 4. KRS 61.874 is amended to read as follows:

(1) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all written public records. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee***, including postage where appropriate***. If the applicant desires copies of public records other than written records, the custodian of ***the*** [~~such~~] records shall permit the applicant to duplicate ***the*** [~~such~~] records***;***[~~,~~] however, the custodian may ensure that such duplication will not damage or alter the records.

(2) The public agency may prescribe a reasonable fee for making copies of public records which shall not exceed the actual cost [~~thereof~~] not including the cost of staff required.

Section 5. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research[~~, in conjunction with an application for a loan, the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise~~]. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) ***1. Records confidentially disclosed to an agency, generally recognized as confidential, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained:***

a. In conjunction with an application for a loan;

b. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

c. For the grant or review of a license to do business.

2. The exemptions provided for in subparagraph 1. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. [~~Provided, however, that~~] This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph ***(c)***[~~(b)~~] of this subsection;

(e)[~~(d)~~] The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired.[~~; provided, however,~~] The law of eminent domain shall not be affected by this provision;

(f)[~~(e)~~] Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again;

(g)[~~(f)~~] Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. [~~Provided, however that~~] The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(h)[~~(g)~~] Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(i)[~~(h)~~] Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(j)[~~(i)~~] All public records or information the disclosure of which is prohibited by federal law or regulation; and

(k)[~~(j)~~] Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge or impede the right of a ***public agency*** [~~state~~] employee, ***including university employees,*** an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. ***The*** [~~Such~~] records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores and preliminary and other supporting documentation. A ***public agency*** [~~state~~] employee, ***including university employees,*** applicant or eligible shall not have the right to inspect or to copy any examination ***or any documents relating to ongoing criminal or administrative investigations by an agency.***

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

Section 6. KRS 61.880 is amended to read as follows:

(1) ***If a person enforces KRS 61.870 to 61.884 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section.*** Each public agency, upon any request for records made under KRS 61.870 to 61.884, shall determine within three (3) days***,*** [~~(~~]excepting Saturdays, Sundays, and legal holidays***,***[~~)~~] after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3)

day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) ***If a complaining party wishes the Attorney General to review a public agency's denial of a request to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection. If the public agency refuses to provide a written response, a complaining party shall provide a copy of the written request.*** [~~A copy of the written response denying inspection of a public record shall be forwarded immediately by the agency to the Attorney General of the Commonwealth of Kentucky. If requested by the person seeking inspection,~~] The Attorney General shall review the ***request and*** denial and issue within ten (10) days, [~~(~~]excepting Saturdays, Sundays and legal holidays,[~~)~~] a written ***decision*** [~~opinion to the agency concerned,~~] stating whether the agency ***violated*** [~~acted consistent with~~] provisions of KRS 61.870 to 61.884. ***On the day that the Attorney General renders his decision, he shall mail a copy to the agency and*** a copy [~~of the opinion shall also be sent by the Attorney General~~] to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency, and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding the enforcement of KRS 61.870 to 61.884.

(4) In the event a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General, and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) ***(a) A party shall have ten (10) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the ten (10) day time limit shall be treated as if it were an action brought under Section 7 of this Act.***

(b) If an appeal is not filed within the ten (10) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained [~~If the Attorney General upholds, in whole or in part, the request for inspection, the public agency involved may institute proceedings within thirty (30) days for injunctive or declaratory relief in the Circuit Court of the district where the public record is maintained. If the Attorney General disallows the request or if the public agency continues to withhold the record notwithstanding the opinion of the Attorney General, the person seeking disclosure may institute such proceedings~~].

Section 7. KRS 61.882 is amended to read as follows:

(1) ***The Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained*** [~~The Circuit Courts of this state~~] shall have jurisdiction to enforce the ***provisions*** [~~purposes~~] of KRS 61.870 to 61.884, by injunction or other appropriate order on application of any ***person*** [~~citizen of this state~~].

(2) In order for the Circuit Courts of this state to exercise their jurisdiction to enforce the ***provisions*** [~~purposes~~] of KRS 61.870 to 61.884, it shall not be necessary ***for a complaining party to have complied with any of the provisions of Section 6 of this Act*** [~~to have forwarded any request for the documents to the Attorney General pursuant to KRS 61.880, or for the Attorney General to have acted in any manner upon a request for his opinion~~].

(3) In any such action, the court shall determine the matter de novo and the burden of proof shall be on the public agency to sustain its action. The court on its own motion, or on motion of either of the parties, may view the records in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

(4) [~~Courts shall take into consideration the basic policy of KRS 61.870 to 61.884 that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.870 to 61.884 or otherwise provided for by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.~~] Except as otherwise provided by law or rule of court, proceedings arising under this section take ***precedence*** [~~precedent~~] on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any person who prevails against ***any*** [~~an~~] agency in any action in the courts ***reqarding a violation of KRS 61.870 to 61.884*** [~~seeking the right to inspect and copy any public record~~] may[~~, upon a finding that the records were wilfully withheld in violation of KRS 61.870 to 61.884,~~] be awarded [~~all~~] costs, including reasonable ***attorney's*** [~~attorney~~] fees, incurred in connection with ***the*** [~~such~~] legal action. [~~If such person prevails in part, the court may in its discretion award him costs or an appropriate portion thereof.~~] In addition, it shall be within the discretion of the court to award ***the*** [~~such~~] person an amount not to exceed twenty-five dollars ($25) for each day that he was denied the right to inspect or copy said public record. ***Attorney's fees,*** [~~The~~] costs***, and awards under this subsection*** [~~or award~~] shall be paid by ***the*** [~~such person or~~] agency ***that*** [~~as~~] the court ***determines*** [~~shall determine~~] is responsible for the violation.

The Committee Substitute to **HB 106** is as follows:

HB 106, AN ACT relating to open records of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by Section 5 of this Act or otherwise provided by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.

Section 2. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884***, unless the context requires otherwise***:

(1) "Public agency" means*:*

(a) Every state or local government officer;

(b) Every state or local government department, division, bureau, board, commission, and authority;

(c) Every state or local legislative board, commission, committee, and officer;

(d) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(e) Every state or local court or judicial agency;

(f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(g) Any body created by state or local authority in any branch of government;

(h) That part of an entity funded by state or local authority to carry out a governmental function;

(i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j) or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof.

(j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established or created by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection; and

(k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection [~~every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, court or judicial agency, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority in any branch of government or which derives at least twenty-five percent (25%) of its funds from state or local authority~~];

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned ***or maintained*** by ***or for an entity referred to in subsection (1)(h) of this section*** [~~a private person or corporation~~] that are not related to ***the governmental function*** [~~functions, activities, programs or operations~~] funded by state or local authority;

(3) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control; and

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

Section 3. KRS 61.872 is amended to read as follows:

(1) All public records shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884, and suitable facilities shall be made available by each public agency for the exercise of this right. No person shall remove original copies of public records from the offices of any public agency without the written permission of the official custodian of the record.

(2) Any person shall have the right to inspect public records [~~during the regular office hours of the public agency~~]. The official custodian may require written application describing the records to be inspected. ***The application shall be hand delivered, mailed, or sent via facsimile to the public agency.***

(3) ***A person may inspect the public records:***

(a) During the regular office hours of the public agency; or

(b) By receiving copies of the public records from the public agency through the mail. The public agency shall mail copies of the public records to the person after he precisely describes the public records which are readily available within the public agency.

(4) If the person to whom the application is directed does not have custody or control of the public record requested, such person shall so notify the applicant and shall furnish the name and location of the custodian of the public record, if such facts are known to him.

(5)[~~(4)~~] If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately so notify the applicant and shall designate a place, time and date, for inspection of the public records, not to exceed three (3) days from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection.

(6)[~~(5)~~] If the application places an unreasonable burden in producing voluminous public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records ***or mail copies thereof***. However, refusal under this section ***shall*** [~~must~~] be sustained by clear and convincing evidence.

Section 4. KRS 61.874 is amended to read as follows:

(1) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all written public records. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee***, including postage where appropriate***. If the applicant desires copies of public records other than written records, the custodian of ***the*** [~~such~~] records shall permit the applicant to duplicate ***the*** [~~such~~] records***;***[~~,~~] however, the custodian may ensure that such duplication will not damage or alter the records.

(2) The public agency may prescribe a reasonable fee for making copies of public records which shall not exceed the actual cost [~~thereof~~] not including the cost of staff required.

Section 5. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research[~~; in conjunction with an application for a loan, the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise~~]. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) ***1. Records confidentially disclosed to an agency, generally recognized as confidential, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained:***

a. In conjunction with an application for a loan;

b. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

c. For the grant or review of a license to do business.

2. The exemptions provided for in subparagraph 1. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. [~~Provided, however, that~~] This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph ***(c)***[~~(b)~~] of this subsection;

(e)[~~(d)~~] The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired.[~~; provided, however,~~] The law of eminent domain shall not be affected by this provision;

(f)[~~(e)~~] Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again;

(g)[~~(f)~~] Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. [~~Provided, however that~~] The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(h)[~~(g)~~] Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(i)[~~(h)~~] Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(j)[~~(i)~~] All public records or information the disclosure of which is prohibited by federal law or regulation; and

(k)[~~(j)~~] Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge or impede the right of a ***public agency*** [~~state~~] employee, ***including university employees,*** an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. ***The*** [~~Such~~] records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores and preliminary and other supporting documentation. A ***public agency*** [~~state~~] employee, ***including university employees,*** applicant or eligible shall not have the right to inspect or to copy any examination ***or any documents relating to ongoing criminal or administrative investigations by an agency.***

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

Section 6. KRS 61.880 is amended to read as follows:

(1) ***If a person enforces KRS 61.870 to 61.884 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section.*** Each public agency, upon any request for records made under KRS 61.870 to 61.884, shall determine within three (3) days, [~~(~~]excepting Saturdays, Sundays, and legal holidays,[~~)~~] after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the three (3) day period, of its decision. An agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority, and it shall constitute final agency action.

(2) ***If a complaining party wishes the Attorney General to review a public agency's denial of a request to inspect a public record, the complaining party shall forward to the Attorney General a copy of the written request and a copy of the written response denying inspection. If the public agency refuses to provide a written response, a complaining party shall provide a copy of the written request.*** [~~A copy of the written response denying inspection of a public record shall be forwarded immediately by the agency to the Attorney General of the Commonwealth of Kentucky. If requested by the person seeking inspection,~~] The Attorney General shall review the ***request and*** denial and issue within ten (10) days, [~~(~~]excepting Saturdays, Sundays and legal holidays,[~~)~~] a written ***decision*** [~~opinion to the agency concerned,~~] stating whether the agency ***violated*** [~~acted consistent with~~] provisions of KRS 61.870 to 61.884. ***On the day that the Attorney General renders his decision, he shall mail a copy to the agency and*** a copy [~~of the opinion shall also be sent by the Attorney General~~] to the person who requested the record in question. The burden of proof in sustaining the action shall rest with the agency, and the Attorney General may request additional documentation from the agency for substantiation. The Attorney General may also request a copy of the records involved but they shall not be disclosed.

(3) Each agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding the enforcement of KRS 61.870 to 61.884.

(4) In the event a person feels the intent of KRS 61.870 to 61.884 is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees or the misdirection of the applicant, the person may complain in writing to the Attorney General, and the complaint shall be subject to the same adjudicatory process as if the record had been denied.

(5) ***(a) A party shall have ten (10) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the ten (10) day time limit shall be treated as if it were an action brought under Section 7 of this Act.***

(b) If an appeal is not filed within the ten (10) day time limit, the Attorney General's decision shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained [~~If the Attorney General upholds, in whole or in part, the request for inspection, the public agency involved may institute proceedings within thirty (30) days for injunctive or declaratory relief in the Circuit Court of the district where the public record is maintained. If the Attorney General disallows the request or if the public agency continues to withhold the record notwithstanding the opinion of the Attorney General, the person seeking disclosure may institute such proceedings~~].

Section 7. KRS 61.882 is amended to read as follows:

(1) ***The Circuit Court of the county where the public agency has its principal place of business or the Circuit Court of the county where the public record is maintained*** [~~The Circuit Courts of this state~~] shall have jurisdiction to enforce the ***provisions*** [~~purposes~~] of KRS 61.870 to 61.884, by injunction or other appropriate order on application of any ***person*** [~~citizen of this state~~].

(2) ***A person alleging a violation of the provisions of KRS 61.870 to 61.884 shall not have to exhaust his remedies under Section 6 of this Act before filing suit in a Circuit Court*** [~~In order for the Circuit Courts of this state to exercise their jurisdiction to enforce the purposes of KRS 61.870 to 61.884, it shall not be necessary to have forwarded any request for the documents to the Attorney General pursuant to KRS 61.880, or for the Attorney General to have acted in any manner upon a request for his opinion~~].

(3) In ***an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to subsection (5)(a) of Section 6 of this Act, the court shall determine the matter de novo. All other appeals shall be prohibited. In an original action or an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to subsection (5)(a) of Section 6 of this Act, the burden of proof shall be on the public agency*** [~~any such action, the court shall determine the matter de novo and the burden of proof shall be on the public agency to sustain its action~~]. The court on its own motion, or on motion of either of the parties, may view the records in controversy in camera before reaching a decision. Any noncompliance with the order of the court may be punished as contempt of court.

(4) [~~Courts shall take into consideration the basic policy of KRS 61.870 to 61.884 that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.870 to 61.884 or otherwise provided for by law shall be strictly construed, even though such examination may cause inconvenience or embarrassment to public officials or others.~~] Except as otherwise provided by law or rule of court, proceedings arising under this section take ***precedence*** [~~precedent~~] on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.

(5) Any person who prevails against ***any*** [~~an~~] agency in any action in the courts ***regarding a violation of KRS 61.870 to 61.884*** [~~seeking the right to inspect and copy any public record~~] may[~~, upon a finding that the records were wilfully withheld in violation of KRS 61.870 to 61.884,~~] be awarded [~~all~~] costs, including reasonable ***attorney's*** [~~attorney~~] fees, incurred in connection with ***the*** [~~such~~] legal action. [~~If such person prevails in part, the court may in its discretion award him costs or an appropriate portion thereof.~~] In addition, it shall be within the discretion of the court to award ***the*** [~~such~~] person an amount not to exceed twenty-five dollars ($25) for each day that he was denied the right to inspect or copy said public record. ***Attorney's fees,*** [~~The~~] costs***, and awards under this subsection*** [~~or award~~] shall be paid by ***the*** [~~such person or~~] agency ***that*** [~~as~~] the court ***determines*** [~~shall determine~~] is responsible for the violation.

HB 233, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525,

may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the system actuary. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Teacher aides, secretaries, custodial personnel, and cafeteria employees of a school district may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on an annual or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment shall be by lump sum, except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave***, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System,*** by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed

contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

Announcements

The following meeting was announced:

State Government, fifteen minutes upon adjournment, Room 129.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, February 7, 1992.

On the roll call the vote was yeas 72—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Jones, Kerr, Lear, Lewis, Little, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Sanders, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 1—Lile.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 7, 1992

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Gregory and Little.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 6, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 16**, by Representative Wayne:

Amend printed copy of **HB 16/HCS** on page 5, line 5, after the word "State" by inserting "***and local***".

Senate Message

Announcing passage of **SB 57**, **SB 123**. (Time: 10:03 p.m.)

Introduction of Bills and Resolutions

HB 469, by Representative Jones: AN ACT relating to venue.

HB 470, by Representative Jones: AN ACT relating to the authority of the Attorney General.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 81, HCR 78**

Appropriations and Revenue: **HB 451, HB 463, HB 467, HB 468**

Banking and Insurance: **HB 454, HB 452, HB 466**

Business Organizations and Professions: **HB 446, HB 450**

Cities: **HB 458**

Counties and Special Districts: **HB 448**

Education: **HB 443**

Elections and Constitutional Amendments: **HB 449**

Health and Welfare: **HB 453, HB 456, HB 447**

Judiciary: **SB 53, HB 445**

Labor and Industry: **HB 459, HB 457, HB 461, HB 462**

Natural Resources and Environmental Protection: **HB 465**

State Government: **HB 455, HB 444, HB 464, HCR 76**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 319**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 164**, by Representative Ridley:

Amend printed copy of **HB 164** on page 4, beginning on line 10, by deleting "***, in accordance***" and by deleting line 11 in its entirety and deleting through the word "***secretary,***" on line 12; and

on page 4, line 13, delete the period "." and insert in lieu thereof the following new language: "***, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective.***"; and

on page 4, line 14, delete the word "***new***" and insert after "***to***" the phrase, "***a minimum rate as provided in***"; and

on page 4, beginning on line 18, by deleting "***October 31 of***" and deleting lines 19, 20 and 21 in their entirety and by inserting in lieu thereof the following: "***the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.***".

Calendar

HB 176, **HB 178**, **HB 264**, **HB 342**, **HB 169**, **HB 174**, **HB 184**, **HB 207**, **HB 352**, **HB 16**, **HB 106** and **HB 233** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 34** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:06 a.m.)

Orders of the Day

HB 302 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 302** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 7, 1992 roll call on **HB 302** - Appendix.)

HB 302 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 302** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 301, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 301**. Agreed.

Representative Geveden moved that **HB 301**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 7, 1992 roll call on **HB 301** - Appendix.)

HB 301, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 301**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 43** be passed.

On the roll call the vote was: Yeas 66, Nays 24. (See February 7, 1992 roll call on **HB 43** - Appendix.)

HB 43 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 43** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 16**, by Representative Geveden:

Amend printed copy of **HB 16/HCS** on page 13, line 11, by deleting "***person***" and inserting "***party***" in lieu thereof; and

On page 13, line 11, by deleting "***against any agency***"; and

On page 13, line 18, by deleting "***Attorneys' fees.***"; and

On page 13, by deleting lines 19 and 20 in their entirety.

Floor Amendment No. 2 to the Committee Substitute to **HB 16**, by Representative Geveden:

Amend printed copy of **HB 16/HCS** on page 13, by deleting lines 11 through 20 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 106**, by Representative Geveden:

Amend printed coy of **HB 106/HCS** on page 15, line 22, by deleting the bracket and strikethroughs following "may"; and

On page 15, by deleting all strikethroughs on line 23; and

On page 15, line 24, by deleting the strikethroughs on "to 61.884," and by deleting the bracket following "61.884,"; and

On page 15, line 26, by deleting the bracket before "If" and by deleting the strikethroughs on "If such"; and

On page 16, by deleting all brackets and strikethroughs on lines 1 and 2.

Floor Amendment No. 5 to the Committee Substitute to **HB 16**, by Representative Sheehan:

Amend printed copy of **HB 16/HCS** on page 13, line 13, by inserting the following after "***61.850***":

"***, where the violation is found to be willful,***".

Floor Amendment No. 1 to **HB 94**, by Representative L. Clark:

Amend printed copy of **HB 94** on page 1, before line 1, by adding the following:

"Section 1. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the barber board shall ***promulgate*** [~~prescribe~~] reasonable [~~rules and~~] ***administrative*** regulations:

(a) Governing the location and housing of barber shops or schools;

(b) Governing the quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;

(c) Governing the training and supervision of barber apprentices;

(d) Governing the qualifications of teachers of barbering;

(e) Governing the hours and courses of instruction at barber

schools;

(f) Governing the examinations of applicants for barber, apprentice barber, or teacher of barbering***;*** [~~.~~]

(g) Establishing, by administrative regulations, the fees for barber schools, barber shops, barbers, apprentices, applications, examinations, and renewal fees. The board may also define and establish fees for other categories of barbering.

(2) ***Administrative*** regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for human resources before becoming effective."; and

On page 1, line 1, after the word "Section" by deleting "1" and by inserting "2" in lieu thereof; and

On page 1, line 11, after the word "fee" by inserting "***as prescribed by administrative regulation***" and by placing an opening bracket before the word "of" and striking through that word, and by deleting "***thirty dollars ($30)***" and the opening bracket before the word "~~twenty~~"; and

On page 1, line 14, by inserting after the word fee the following: "***as prescribed by administrative regulation***" and by placing an opening bracket before the word "of" and striking through the remainder of that line; and

On page 1, line 15, by striking through the words "dollars ($50.00)" and placing a closing bracket after "($50.00)"; and

On page 2, line 8, by adding after the semicolon the word "***and***"; and

On page 2, line 9, after the word "examination" by inserting the following: "***, and paid the appropriate fees***"; and

On page 2, line 10, after the word "board" by placing an opening bracket before the semicolon, and striking through the remainder of that line; and

On page 2, line 11, by deleting all new material on that line and the opening bracket before the word "~~twenty~~" and striking through all text on that line that has not already been stricken through; and

On page 2, line 16, by inserting after the word "fee" the following: "***as provided by administrative regulation.***" and by placing an opening bracket before the word "of" and striking through that word, and by deleting the words "***thirty dollars***"; and

On page 2, line 17, by deleting the word "***($30).***" and by deleting the opening bracket on that line; and

On page 3, line 13, by inserting after the word "fee" the following: "***as prescribed by administrative regulation***" by deleting "***and fifty***" from that line, and by placing an opening bracket before the word "of" and striking through the text remaining on that line; and

On page 3, line 14, by deleting "***($150)***" and the opening bracket before "~~($100)~~"; and

On page 3, line 20, by adding after the semicolon the word "***and***"; and

On page 3, line 22, by placing brackets around and striking through the semicolon after the word "board" and by inserting after the word "and" the following: "***paid the fees prescribed by administrative regulation***"; and

On page 3, line 23, by deleting "***fifty dollars ($50)***" from that line and by inserting an opening bracket before "(e)" and striking through the text remaining on that line; and

On page 3, line 24, by deleting the existing brackets on that line and striking through the period on that line; and

On page 3, lines 25 and 26, by striking through all text on those two lines; and

On page 4, lines 1 through 5, by deleting all underlined material and all brackets on those lines, and by striking through all text on those lines that is not already stricken through; and

On page 4, line 6, by deleting the opening bracket on that line; and

On page 4, line 7, by inserting "***(6)***" before "(7)" and by bracketing and striking through "(7)"; and

On page 4, line 22, by inserting an opening bracket before "(8)" and striking through all text on that line; and

From page 4, line 23, through page 5, line 17, by deleting all underlined material and all brackets on those lines, and by striking through all text on those lines that is not already stricken through; and

On page 5, line 17, by placing a closing bracket after the period on that line.

Floor Amendment No. 4 to the Committee Substitute to **HB 16**, by Representative Walker:

Amend printed copy of **HB 16/HCS** on page 6, by adding the following between lines 3 and 4:

"***(3) If a majority of the members of either house of the General Assembly meet to discuss legislative or any public business, the meeting shall be open to the public.***".

Floor Amendment No. 6 to the Committee Substitute to **HB 16**, by Representative Walker:

Amend printed coy of **HB 16/HCS** on page 6, by adding the following between lines 3 and 4:

"***(3) If a majority of the members of either house of the General Assembly meet to discuss legislative or any public business, the meeting shall be open to the public.***".

Orders of the Day (Continued)

HB 41 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 41** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 7, 1992 roll call on **HB 41** - Appendix.)

HB 41 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 41** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the following bill be recommitted. Agreed.

Appropriations and Revenue: **HB 98**.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 471, by Representative L. Clark: AN ACT relating to fire protection.

HB 472, by Representative Deskins: AN ACT relating to air emissions and declaring an emergency.

HB 473, by Representative Burch: AN ACT relating to dentistry.

HB 474, by Representative Clarke: AN ACT relating to Circuit Court.

HB 475, by Representative Geveden: AN ACT relating to disaster and emergency services.

HR 81, by Representatives Burch, Callahan, Sheehan, Donnermeyer, Barrows, Reinhardt, Noe, Scorsone, Gedling, Brown, Sanders, LeMaster, Stumbo, Bruce, Bentley, Collins, Bryant, Noland, Allen, K. Harper, Lear, Curd, Castleman, Butler, Ridley, Little, Farrow, Hancock, Rapier, Crupper, Gee, Wayne, Richardson, Bronger, Bowling, Geveden and Worthington: A RESOLUTION adjourning in honor of members not filing for reelection to the House of Representatives.

HR 82, by Representative Curd: A RESOLUTION honoring Mrs. Amy Curtis of Murray for founding the Family to Family Program and adjourning in her honor.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 409, HB 321**

Business Organizations and Professions: **HB 421, SB 71, HB 298**

Agriculture and Small Business: **HCR 26, HCR 52**

Motions, Petitions and Communications (Continued)

Representative Strong moved the adoption of the following Legislative Citation No. 19. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion the loss of Arminta Pratt Smith. Arminta Pratt Smith's generosity was well displayed in her service to her community of Leatherwood. As a humanitarian, she was most responsive to the needs of others and a friend of the people. Her death, at age ninety-three, has brought deep sorrow to all who knew her.

This prestigious body joins Representative William R. Strong in extending our deepest sympathy to Arminta Pratt Smith's eight children, family and friends.

Representative Hancock moved the adoption of the following Legislative Citation No. 20. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates Mr. and Mrs. R. T. Brooks upon your 50th Wedding Anniversary. The love and affection that has filled your lives has touched those close to you. God blessed you with his priceless gift of love——your children, Bruce, Glenn, David and Steve. May God continue to bless you and your family and may you have everlasting love, health and happiness.

This prestigious body joins Representative Hank Hancock in extending to you our very best wishes for many years of happiness.

Representative Curd moved the adoption of the following **HR 82**:

HR 82, A RESOLUTION honoring Mrs. Amy Curtis of Murray for founding the Family to Family Program and adjourning in her honor.

WHEREAS, what started as the passion of one woman, Mrs. Amy Curtis, has blossomed into a major initiative called Family to Family; and

WHEREAS, in August, 1991, Mrs. Amy Curtis was in tears at the announcement from the Soviet Union of the tremendous hardship being suffered by their citizens because of the short supplies of everyday necessities and food; and

WHEREAS, despite her husband's being unemployed, Mrs. Amy Curtis resolved to try and help at least one Soviet family make the transition from tyranny to freedom, recognizing that it is our example from 200 years ago they are trying to follow; and

WHEREAS, this simple and beautiful idea of Mrs. Amy Curtis has caught the imagination of hundreds of American families and has grown beyond her wildest dreams; and

WHEREAS, with the help of the TASS News Agency, letters from families in crisis are being sent to "adoptive" American families so that personal contact can be made to arrange the sharing of material abundance or simply letters of hope and encouragement;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby express its heartfelt appreciation to Mrs. Amy Curtis and her family for founding the Family to Family Program.

Section 2. That this venerable institution does hereby applaud the ideals and dedication of Mrs. Amy Curtis as being in the highest traditions that all Kentuckians value in our American heritage.

Section 3. That when the House adjourns this day it does so in honor of Mrs. Amy Curtis.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Amy Curtis, Route #7, Box 650, Murray, Kentucky 42071.

HR 82 was adopted by voice vote.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 62**, by Representative Strong:

Amend printed copy of **HB 62/HCS** on page 8, line 2, after the word "***ordinance***" and before the word "***that***" insert "***within ninety (90) days after the effective date of this Act,***"; and

On page 8, line 4, after the period, insert "***The local governing body or bodies of the city, cities, county, or counties that establish a commission after the effective date of this Act shall enact an ordinance, upon the establishment of the commission, that provides for the collection of the tax and the enforcement of the tax measure enacted pursuant to this section.***"; and

On page 10, after line 19, insert the following:

"SECTION 4. A NEW SECTION OF KRS 91A.350 to 91A.390 IS CREATED TO READ AS FOLLOWS:

(1) If the members of the local governing body or bodies of the city, cities, county, or counties, that have established a commission by joint or separate action, fail to enact the required ordinance that provides for the collection of the tax and the enforcement of the tax measure enacted, pursuant to KRS 91A.390, the failure of the members of a local governing body or bodies to enact the required ordinance shall be grounds for the automatic removal of the members of the local governing body or bodies that have established the commission.

(2) Failure of the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay the full amount of the tax that is owed by them, pursuant to KRS 91A.390, shall require the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay a fine equal to twenty percent (20%) of the tax owed for each month that the tax goes unpaid, to the local governing body or bodies that established the commission, until the full amount of the tax that is owed to the local governing body or bodies that established the commission is paid in full."

Motions, Petitions and Communications (Continued)

Representative Burch moved the adoption of the following **HR 81**:

HR 81, A RESOLUTION adjourning in honor of members not filing for reelection to the House of Representatives.

WHEREAS, after laboring long and hard for the citizens of our great Commonwealth, certain members of this august body have chosen not to seek reelection to the House of Representatives; and

WHEREAS, these dedicated and tireless public servants have been identified as Billie D. Ark, Walter Blevins, Lindy Casebier, Pat Freibert, William Chester "Bud" Gregory, Albert Jones, Louie Mack, Raymond Overstreet, A.G. Pritchett, Susan B. Stokes, William Strong, Jerry Michael Toby, and Lawson Walker; and

WHEREAS, for many years these thirteen stalwart souls have bestowed countless benefits on their districts and contributed in many ways to our beloved Kentucky; and

WHEREAS, our compatriots will be sorely missed by we who remain to fight the great fight for our children and posterity;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this venerable institution expresses its sorrow at the departure of its esteemed colleagues and wishes them well in their future endeavors.

Section 2. That when the House of Representatives adjourns this day it does so in honor and memory of those shared moments and many accomplishments we shall cherish in the many years to come.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representatives: Ark, Blevins, Casebier, Freibert, Gregory, Jones, Mack, Overstreet, Pritchett, Stokes, Strong, Toby and Walker.

HR 81 was adopted by voice vote.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HR 81**.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Long, Lyne, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T. Smith, Strong, Stumbo, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 1—Toby.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 196**, by Representative Riner:

Amend printed copy of **HB 196** on page 2, after line 24 add the following language:

SECTION 2 A NEW SECTION OF KRS CHAPTER 159 IS CREATED TO READ AS FOLLOWS:

The local superintendent of schools shall be responsible for submitting the names of students identified as truant to the state Department of Education. This information shall be categorized by age, race, sex, and participation in the free lunch program.".

Representative Hourigan moved the adoption of the following **HR 80**:

HR 80, A RESOLUTION commending Deputy Sheriff Terry Cruse of LaRue County and adjourning the House in his honor.

WHEREAS, Deputy Sheriff Terry Cruse of LaRue County is thankful to be alive after taking a 12-gauge shotgun blast to his shoulder; and

WHEREAS, Deputy Sheriff Terry Cruse was shot in the line of duty while arresting three men for disorderly conduct and terroristic threatening; and

WHEREAS, his assailant has been charged with attempted murder of a police officer and is being held in the LaRue County Detention Center; and

WHEREAS, Deputy Sheriff Terry Cruse, a six-year veteran of the LaRue County Sheriff's Department, was praised for his instincts and training by Sheriff Merle Edlin;

NOW, THEREFORE,

Be it resolved by the House Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby commend Deputy Sheriff Terry Cruse for his valor and wishes him a speedy recovery.

Section 2. That this esteemed body proclaims Deputy Sheriff Terry Cruse as a dedicated protector of the public good and hails his example to all law enforcement officers and citizens of our great Commonwealth.

Section 3. That when the House adjourns this day it does so in honor of Deputy Sheriff Terry Cruse.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Deputy Sheriff Terry Cruse, LaRue County Courthouse, 207 West High Street, Hodgenville, Kentucky 42748.

HR 80 was adopted by voice vote.

Motions, Petitions and Communications (Continued)

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 357**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that he be recorded as voting "yea" on **HB 302**. Agreed.

Representative Hatcher moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hatcher moved that he be recorded as voting "yea" on **HB 66**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under previous suspension of the rules:

HB 244, Representative Casebier; **HB 43**, Representative Ackerson.

Announcements

The following meetings were announced:

Appropriations and Revenue Subcommittee on Human Services, 2:00 p.m., February 10, 1992.

Budget Review Subcommittee on General Government, 1:00 p.m., February 10, 1992.

The following meeting was cancelled:

Cities, Tuesday, February 11, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 10, 1992.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 5—Casebier, Deskins, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 10, 1992

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend David Smith, North Frankfort Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Little, Mullinix and R. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 7, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 196**, by Representative Williams:

Amend printed copy of **HB 196** as follows:

On page 1, line 2 after the word "who" by placing brackets around and striking through "willfully" and insert "***intentionally***" in lieu thereof; and

On page 1, line 8 after the period "." by inserting the following:

"***A new offense shall not be constituted until any previous offense has been finally adjudicated.***"; and

On page 1, line 17 after the word "who" by placing brackets around and striking through "willfully" and inserting "***intentionally***" in lieu thereof.

Introduction of Bills and Resolutions

HB 476, by Representative Ark: AN ACT relating to certificate of need.

HB 477, by Representatives Sheehan, Donnermeyer, Callahan and Castleman: AN ACT relating to telecommunication services for hearing-impaired or speech-impaired persons, and declaring an emergency.

HB 478, by Representative Zimmerman: AN ACT relating to the School Facilities Construction Commission.

HR 83, by Representative Zimmerman: A RESOLUTION memorializing the Kentucky Air National Guardsmen and others killed in the Evansville airplane disaster.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **SB 123**

Counties and Special Districts: **HB 471**

Health and Welfare: **HB 473**

Judiciary: **HB 469, HB 474**

Natural Resources and Environmental Protection: **HB 472**

State Government: **HB 470, HB 475**

Transportation: **HB 460, SB 57**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Natural Resources and Environmental Protection: **HB 418, HJR 68**

Education: **HB 249, HB 443**

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 183**, by Representative Lewis:

Amend printed copy of **HB 183** as follows:

On page 6, line 3, by deleting "***five percent (5%)***" and inserting "***two percent (2%)***" in lieu thereof.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 164, HB 176, HB 207, HB 233, HB 342** and **HB 352** have been posted for passage in the Orders of the Day for February 11, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 345, HB 174, HB 184, HB 264**

Orders of the Day

HB 94, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Floor Amendment No. 1 to **HB 94**. Agreed.

Representative L. Clark moved that **HB 94**, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 23. (See February 10, 1992 roll call on **HB 94** - Appendix.)

HB 94, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 94**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 62**, by Representative Strong:

Amend printed copy of **HB 62/HCS** as follows:

On page 7, line 26, delete "***or counties***"; and

On page 7, line 26, after the second comma and before the word "***county***", insert "***or***"; and

On page 8, line 2, after the word "***ordinance***" and before the word "***that***" insert "***within ninety (90) days after the effective date of this Act,***"; and

On page 8, line 4, after the period, insert "***The local governing body or bodies of the city, cities, or county that establish a commission after the effective date of this Act shall enact an ordinance, upon the establishment of the commission, that provides for the collection of the tax and the enforcement of the tax measure enacted pursuant to this section. Local governing bodies that establish a tourist and convention commission pursuant to KRS 91A.350(3) shall not be required to enact an ordinance that provides for the collection of the tax and the enforcement of the tax measure enacted pursuant to this section.***"; and

On page 10, after line 19, insert the following:

"SECTION 4. A NEW SECTION OF KRS 91A.350 to 91A.390 IS CREATED TO READ AS FOLLOWS:

(1) If the members of the local governing body or bodies of the city, cities, or county that have established a commission by joint or separate action, fail to enact the required ordinance that provides for the collection of the tax and the enforcement of the tax measure enacted, pursuant to KRS 91A.390, the failure of the members of a local governing body or bodies to enact the required ordinance shall be grounds for the automatic removal of the members of the local governing body or bodies that have established the commission.

(2) Failure of the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay the full amount of the tax that is owed by them, pursuant to KRS 91A.390, shall require the owners of a motor court, motel, hotel, inn, or similar accommodation business to pay a fine equal to twenty percent (20%) of the tax owed for each month that the tax goes unpaid, to the local governing body or bodies that established the commission, until the full amount of the tax that is owed to the local governing body or bodies that established the commission is paid in full."

Floor Amendment No. 5 to the Committee Substitute to **HB 62**, by Representative Strong:

Amend printed copy of **HB 62/HCS** as follows:

On page 10, after line 19, insert the following:

"SECTION 4. A NEW SECTION OF KRS 91A.350-91A.390 IS CREATED TO READ AS FOLLOWS:

(1) If the owner of any motor court, motel, hotel, inn, or like or similar accommodation business is deliquent in the payment of the transient room tax imposed pursuant to KRS 91A.390, and enters into a bankruptcy proceeding, then the priority of payment of the delinquent transient room tax to the tax levying authority shall be on par with the payment of any delinquent ad valorem taxes owed by the owner of an accommodation business, who has entered into a bankruptcy proceeding. The local governing body, acting as the tax levying authority, that established the tourist and convention commission shall have a lien against the accommodation business for the value of the delinquent transient room tax and the lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding."

Orders of the Day (Continued)

HB 205 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 205** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 10, 1992 roll call on **HB 205** - Appendix.)

HB 205 was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 205** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 331 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HB 331** be passed.

On the roll call the vote was: Yeas 82, Nays 6. (See February 10, 1992 roll call on **HB 331** - Appendix.)

HB 331 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 331** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 244 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HB 244** be passed.

Representative Mason moved that **HB 244** be laid on the table.

On the roll call the vote was yeas 21—Altman, Bentley, Bowling, Castleman, Collins, Curd, Hatcher, Jones, Keith, Long, Lyne, Mack, Mason, Morris, Nelson, Northup, Richards, Strong, Stumbo, Yates, Zimmerman. Nays 62—Ackerson, Adkins, Allen, Ark, Arnold, Blandford, Bronger, Brown, Burch, Butler, Callahan, Casebier, L. Clark, Coleman, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gregory, Hancock, J. Harper, K. Harper, Heleringer, Jensen, Johnson, Kerr, Lear, LeMaster, Lewis, Lile, Maggard, McElroy, Moberly, Napier, Noe, Nunn, Overstreet, Pritchett, Rapier, Reinhardt, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, T. Smith, Stokes, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington.

The motion that **HB 244** be laid on the table was rejected.

On the roll call on the passage of **HB 244** the vote was: Yeas 83, Nays 9. (See February 10, 1992 roll call on **HB 244** - Appendix.)

HB 244 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 244** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 310, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Substitute No. 2 to **HB 310**. Agreed.

Representative Overstreet moved that **HB 310**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 10, 1992 roll call on **HB 310** - Appendix.)

HB 310, by way of Committee Substitute, was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 310**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 479, by Representatives Kerr, Donnermeyer, J. Harper, Northup, Sheehan, Johnson, Heleringer, Butler, Hancock, Worthington, Yates, Allen, Bronger, Gedling, Strong, Farley, Gee, Turner, Altman, Nunn, R. Smith, Bryant, Ford, P. Clark, B. Smith, Toby, T. Smith, Callahan, Walker, Todd, Reinhardt, Williams, Hourigan, K. Harper, Napier and Sanders: AN ACT relating to the performance of an abortion upon a minor.

HB 480, by Representative Kerr: AN ACT relating to water districts.

HB 481, by Representatives Mason and Bentley: AN ACT relating to sexual offenses.

HB 482, by Representative Farrow: AN ACT relating to traffic regulations.

HB 483, by Representative Noe: AN ACT relating to payment for the care and maintenance of prisoners.

HB 484, by Representative Ridley: AN ACT relating to crimes and punishments.

HB 485, by Representatives Cyrus, Brown, Burch, Riner, Little, Heleringer, Geveden, Wayne, Adkins, Collins, Jones, P. Clark, Maggard, Yates, Donnermeyer, L. Clark, Gray, Hatcher, Riggs, Ward, Bronger, Butler and Lewis: AN ACT relating to prevailing wages.

HB 486, by Representatives Lear and Worthington: AN ACT relating to investment of public employers' retirement funds.

HB 487, by Representative Jones: AN ACT relating to insurance.

HB 488, by Representative Moberly: AN ACT relating to education.

HR 84, by Representative Jensen: A RESOLUTION celebrating the one hundred and sixty-five years Laurel County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

HJR 85, by Representative Clarke: A JOINT RESOLUTION relating to the budget process.

HJR 86, by Representative Clarke: A JOINT RESOLUTION relating to the budget process.

HJR 87, by Representative Clarke: A JOINT RESOLUTION relating to the budget process.

HR 88, by Representative Noe: A RESOLUTION honoring Cumberland High School Lady Skins basketball team for winning the All "A" Classic state championship.

HR 89, by Representative Sheehan: A RESOLUTION recognizing the 100th anniversary of St. John's Congregational Church of West Covington.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 455, HB 135, HB 317, HB 364, HB 388, SCR 5, HCR 76**

Health and Welfare: **HB 440, HB 447**

Cities: **HB 211, HB 213, HB 384, HB 389**

Agriculture and Small Business: **HCR 78**

Motions, Petitions and Communications (Continued)

Representative Donnermeyer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 205**. Agreed.

Representative Zimmerman moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Zimmerman moved the adoption of the following **HR 83**:

HR 83, A RESOLUTION memorializing the Kentucky Air National Guardsmen and others killed in the Evansville airplane disaster.

WHEREAS, a routine military training mission on February 6, 1992, turned into a catastrophe, killing sixteen people; and

WHEREAS, a Kentucky Air National Guard C-130B transport plane slammed into JoJo's Restaurant and the Drury Inn on United States Route 41 about a mile from the Evansville Regional Airport where it had been making "touch and go" landings; and

WHEREAS, the dead included all five crewman from the 1,100-member One Hundred Twenty-third Tactical Airlift Wing of the Kentucky National Guard, based at Standiford Field in Louisville; and

WHEREAS, Kentucky Air National Guard spokesman Lieutenant Colonel Edward Tonini said, "Everyone is much touched by the fatalities and the loss of our compatriots;" and

WHEREAS, these valiant young men gave their lives in service to their country and defending democracy throughout the world;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed institution praises the heroic efforts of those that risked their lives in rescuing victims of the tragedy.

Section 2. That this august body does hereby express its profound sense of grief over the loss of Major Richard Strang, Captain Warren Klingaman, First Lieutenant Vincent Yancar, Master Sergeant William Hawkins, and Master Sergeant John Medley.

Section 3. That when the House adjourns this day, it does so in honor and memory of these brave young men of the Kentucky Air Guard.

Section 4. That the Clerk of the House of Representatives is directed to transmit six copies of this Resolution to Lieutenant Colonel Edward Tonini, Headquarters, Kentucky Air National Guard, Boone Center, Frankfort, Kentucky 40601-6168.

HR 83 was adopted by voice vote.

Representative Zimmerman moved that a call of the roll be taken to show co-sponsors of **HR 83**.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Blevins, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Johnson, Jones, Keith, Kerr, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays—0.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "yea" to "abstain" on **HB 244**. Agreed.

Representative Noe moved the adoption of the following **HR 88**:

HR 88, A RESOLUTION honoring the Cumberland High School Lady Skins basketball team for winning the All "A" Classic state championship.

WHEREAS, the Girls' All "A" Classic Championship game between defending champion Cumberland and Lexington Catholic came down to the question of which team could stop the other's big offensive gun; and

WHEREAS, Cumberland won that battle in posting a 55 to 38 victory to win their second consecutive state title at Eastern Kentucky University on February 9, 1992; and

WHEREAS, the Cumberland Lady Skins finished their season with a 23 and 1 win/loss record and never trailed in the championship game; and

WHEREAS, Lori Kluck hit eight out of twelve shots for twenty-two points and got plenty of support from senior twins Kelly Morris, with seventeen points, and Joey Morris, with nine points and eight assists;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate the Cumberland High School Lady Skins basketball team for winning the Girls' All "A" Classic Championship.

Section 2. That this venerable institution applauds the guidance and support provided to the Lady Skins by Coach John Bond, Assistant Coach Charles Schubert, Principal Eugene Stagnolia, and Superintendent Grace Ann Tolliver.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Coach John Bond, Cumberland High School, Redskins Drive, Cumberland, Kentucky 40823.

HR 88 was adopted by voice vote.

Representative Arnold moved that **HB 85** be withdrawn. Agreed.

Representative Sheehan moved the adoption of the following **HR 89**:

HR 89, A RESOLUTION recognizing the 100th anniversary of St. John's Congregational Church of West Covington.

WHEREAS, on May 17, 1992, St. John's Congregational Church will celebrate its 100th Anniversary as an active participant in the West Covington community; and

WHEREAS, from its humble German beginnings, St. John's has always adapted to the needs of its congregation and community; and

WHEREAS, St. John's Congregational Church was first organized on May 1, 1892, as "The First German Evangelical Protestant St. John's Church" to meet the needs of the German population in West Covington; and

WHEREAS, since the original church building was completed on December 26, 1892, St. John's has expanded three times and its congregation is now spread throughout the northern Kentucky area; and

WHEREAS, for the past thirty years, St. John's has been considered the "Home Church" for the children of the Covington Protestant Children's Home in Devou Park; and

WHEREAS, in recent years, the congregation of St. John's has supported needy children in their community by taking wrapped Christmas presents to the Covington Community Center;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby commend the good works of St. John's Congregational Church and the benefits it has bestowed upon the West Covington community.

Section 2. That this venerable institution does hereby recognize the centennial of St. John's Congregational Church and wishes it well in its next 100 years.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Ronnin J. Einhaus, 1253 Parkway, West Covington, Kentucky 41011.

HR 89 was adopted by voice vote.

Representative Stumbo moved that **HB 420** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 310**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills:

HB 205, Representative Noe; **HB 244**, Representatives Ackerson, Bruce; **HB 310**, Representative Todd.

The following member filed a request to have his name withdrawn as co-sponsor to a Bill:

HB 421, Representative P. Clark.

Announcements

The following meetings were announced:

Banking and Insurance, February 11, 1992, upon adjournment.

Appropriations and Revenue, February 11, 1992, at 10:00 a.m. or upon adjournment.

The following meeting was cancelled:

Agriculture and Small Business, February 11, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Tuesday, February 11, 1992.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Casebier, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 11, 1992

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and Gregory.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 10, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 55**, **SB 96**, **SB 107**, **SB 111**, **SB 129**, **SJR 7** and **SJR 36**. (Time: 9:03 a.m.)

Introduction of Bills and Resolutions

HB 489, by Representative Stokes: AN ACT relating to public safety.

HJR 90, by Representative Hourigan: A JOINT RESOLUTION officially recognizing the American Cave and Karst Center and its National Museum of Caves.

HR 91, by Representative Cyrus: A RESOLUTION honoring Ethel McBrayer on the occasion of her seventy-eighth birthday February 11, 1992.

HR 92, by Representative Farrow: A RESOLUTION honoring Dr. James Campbell Cantrill, M.D. of Georgetown, Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HJR 85**, **HJR 86**, **HJR 87**

Counties and Special Districts: **HB 480**, **HB 483**

Economic Development: **HB 486**

Education: **HB 488**

Health and Welfare: **HB 476**

Judiciary: **HB 479**, **HB 481**, **HB 484**

Labor and Industry: **HB 485**

State Government: **HB 487**

Tourism Development and Energy: **HB 477**

Transportation: **HB 482**

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 178**, by Representative R. Smith:

Amend printed copy of **HB 178/HCS** as follows:

On page 4, line 15, after "***authorize***" by deleting "***or allow***"; and

On line 16, after "***to***" by inserting "***regulate the construction, installation, or alteration of***" and by deleting "***inspect or take enforcement action against***"; and

On line 19, before "***unless***" by inserting "***or for use by a single house built on the farmstead after July 15, 1992***"; and

On lines 19 to 25, by deleting all the text thereon.

Report of Committees

The Committee on Rules reported that **HB 16**, **HB 106** and **HB 178** have been posted for passage in the Orders of the Day for February 13, 1992.

Orders of the Day

HB 183, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Floor Amendment No. 1 to **HB 183**. Agreed.

Representative Noe moved that **HB 183**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 9. (See February 11, 1992 roll call on **HB 183** - Appendix.)

HB 183, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 183**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 209, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Substitute to **HB 209**. Agreed.

Representative McElroy moved that **HB 209**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 13, 1992 roll call on **HB 209** - Appendix.)

HB 209, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 209**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 196, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of Committee Amendment No. 1 to **HB 196**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 1 to **HB 196**. Agreed.

Representative Williams moved the adoption of Floor Amendment No. 2 to **HB 196**. Agreed.

Representative Bowling moved that **HB 196**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 12. (See February 11, 1992 roll call on **HB 196** - Appendix.)

- **HB 196**, as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 196**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 164, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Floor Amendment No. 1 to **HB 164**. Agreed.

Representative Ridley moved that **HB 164**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 11, 1992 roll call on **HB 164** - Appendix.)

HB 164, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 164**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 176 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 176** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 11, 1992 roll call on **HB 176** - Appendix.)

HB 176 was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 176** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 207** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 11, 1992 roll call on **HB 207** - Appendix.)

HB 207 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 207** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 233 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 233** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See February 11, 1992 roll call on **HB 233** - Appendix.)

HB 233 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 233** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 342 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 342** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 11, 1992 roll call on **HB 342** - Appendix.)

HB 342 was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 342** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 352, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved the adoption of the Committee Substitute to **HB 352**. Agreed.

Representative Northup moved that **HB 352**, by way of Committee Substitute, be passed.

Representative Mullinix moved that **HB 352** be laid on the Clerk's desk. Rejected by voice vote.

On the roll call on the passage of **HB 352** the vote was: Yeas 63, Nays 27. (See February 11, 1992 roll call on **HB 352** - Appendix.)

HB 352, by way of Committee Substitute, was passed and the title agreed to.

Representative Northup moved that the vote by which **HB 352**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 91**:

HR 91, A RESOLUTION honoring Ethel McBrayer on the occasion of her seventy-eighth birthday February 11, 1992.

WHEREAS, Ethel McBrayer has unselfishly rendered civic services and been a leader on mental health boards, a supporter of education, politically active, a member of the Advisory Board of Kentucky Christian College and the Jesse Stuart Foundation; and

WHEREAS, her caring and concern have greatly improved the quality life in the Commonwealth; and

WHEREAS, Ethel McBrayer is the mother of Terry McBrayer, founder of McBrayer, McGinnis, Leslie and Kirkland Law Firm, Phyllis Smith legal secretary of the firm's Greenup Office, and Judy Campbell of the Court of Appeals; and

WHEREAS, the members of the House esteem it to be an honor and a privilege to commend Ethel McBrayer on her civic service on the occasion of her seventy-eighth birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives wishes Ethel McBrayer a very happy seventy-eighth birthday.

Section 2. That this honorable body suggests that Ethel McBrayer curtail her civic activities to support the Kentucky Wildcats.

Section 3. That the Clerk of the House send a copy of this Resolution to Ethel McBrayer, in care of Terry McBrayer of McBrayer, McGinnis, Leslie, Kirkland Law Firm, Lexington, Kentucky.

HR 91 was adopted by voice vote.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 92**:

HR 92, A RESOLUTION honoring Dr. James Campbell Cantrill, M.D. of Georgetown, Kentucky.

WHEREAS, Dr. James Cantrill, a native Kentuckian, is a graduate of the University of Kentucky and University of Virginia; and

WHEREAS, Dr. James Cantrill has loyally maintained a private practice for the community of Georgetown since 1954; and

WHEREAS, Dr. James Cantrill has also served in every capacity on numerous professional organizations including the Scott County Medical Society, Georgetown College; Cantrill, Brown, and Hollingworth; Kentucky Medical Association; American Medical Association; and American Medical Political Action Committee; and

WHEREAS, Dr. James Cantrill has ably served as Chief of Staff at John Graves Ford Memorial Hospital and Scott General Hospital and Chairman of the Board of Trustees at Scott General Hospital; and

WHEREAS, Dr. James Cantrill's many civic activities include the Kentucky Historical Society, Rotary Club, Sigma Chi Fraternity, Phi Sigma Chi Medical Fraternity, and the Chamber of Commerce; and

WHEREAS, Dr. James Cantrill is a man of integrity, honor, and great kindness, and he is held in the highest esteem by the Commonwealth of Kentucky and the associations of which he is a member; and

WHEREAS, Dr. James Cantrill is the loving husband of Ewing McGavock Brown Cantrill and devoted father of Corinne Cantrill Shropshire, James Campbell Cantrill III, and the late Andrew Ewing Cantrill; and

WHEREAS, Dr. James Cantrill is a physician that the community of Georgetown is proud to call "friend";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly hails and salutes Dr. James Cantrill for his enduring contributions to the citizens of the Commonwealth of Kentucky.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. James Cantrill, 324 East Jackson Street, Georgetown, Kentucky 40324.

HR 92 was adopted by voice vote.

Representative Ward moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ward moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION honoring the Louisville Division of The Kroger Company upon winning the first annual Presidential Citation for its environmental achievements.

WHEREAS, the President's Environment and Conservation Challenge Awards program was established by Executive Order in May, 1991; and

WHEREAS, the Council on Environmental Quality Administers its award in partnership with the National Geographic Society, the Hearst Corporation, the Business Roundtable and the World Wildlife Fund; and

WHEREAS, recipients were selected from more than 640 applications; and

WHEREAS, the Louisville Division of The Kroger Company was among nine chosen for the Medal Award and among twenty-three chosen for the Citations Award; and

WHEREAS, the Louisville Division of The Kroger Company received this citation for its noteworthy achievements in the area of environmental quality management; and

WHEREAS, the Louisville Division of The Kroger Company sees the environment not as a commodity but as a community to which we belong and use with love and respect; and

WHEREAS, the Louisville Division of The Kroger Company is wisely protecting the environment that our children and their offspring will inherit;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body honors the Louisville Division of The Kroger Company upon winning the first annual Presidential Citation for its environmental achievements.

Section 2. That this esteemed body is proud to honor the Louisville Division of The Kroger Company as an exemplary representative of environmental achievements.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jim Carr, Assistant Manager, Louisville Division, Kroger Company, 10168 Linn Station Road, Louisville, Kentucky 40223.

HR 62 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 490, by Representatives Overstreet, Napier, Jensen, Walker, T. Smith, Turner, Gee, Ford, Keith, Nunn, Allen, Lile, Todd and Casebier: AN ACT relating to health care.

HB 491, by Representatives Barrows and Long: AN ACT relating to public bond issuance.

HB 492, by Representatives Cyrus, Adkins, Maggard and Farley: AN ACT relating to overweight permits.

HB 493, by Representatives T. Smith, Riggs, Ford, Overstreet, Jensen, Allen, Hatcher and Noland: AN ACT relating to revenue collected from insurance companies.

HB 494, by Representatives Jones, Donnermeyer and J. Harper: AN ACT relating to the registration of professional geologists.

HB 495, by Representative Reinhardt: AN ACT relating to revenue and taxation.

HB 496, by Representative Casebier: AN ACT relating to absentee ballots.

HB 497, by Representatives Nunn, Lewis, Walker and Keith: AN ACT relating to insurance.

HB 498, by Representative McElroy: AN ACT relating to grain.

HB 499, by Representatives Freibert, B. Smith, Bentley and Reinhardt: AN ACT relating to insurance companies.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism Development and Energy: **HB 379**

Judiciary: **HB 210, HB 382, HB 383**

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HB 176** and **HB 207**. Agreed.

Representative Farrow moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farrow moved that he be recorded as voting "yea" on **HB 183**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills:

HB 58, Representative Kerr; **HB 261**, Representative Kerr; **HB 332**, Representative Coleman; **HB 408**, Representative Noe; **HB 410**, Representative Noe.

Announcements

The following meetings were announced:

State Government, February 13, 1992, 12:00 noon.

Appropriations and Revenue, February 11, 1992, upon adjournment.

Judiciary, February 11, 1992, Room 125, upon adjournment.

Health and Welfare, February 13, 1992, 12:00 noon.

Elections and Constitutional Amendments, 1:00 p.m. February 13, 1992, Room 131.

Banking and Insurance, February 11, 1992, upon adjournment in Room 131.

Budget Review Subcommittee on Education, February 11, 1992.

The following meetings were cancelled:

Counties and Special Districts, February 12, 1992.

Tourism Development and Energy, February 12, 1992.

Education, February 12, 1992.

Labor and Industry, February 12, 1992.

Economic Development, February 12, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 13, 1992.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Casebier, Heleringer, LeMaster , Lile.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 13, 1992

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Pastor Alex Rodgers, St. Matthews United Methodist Church, St. Matthews.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Ackerson, Johnson, Strong and Ward.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 11, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 86**. (2:03 p.m.)

Message received in regard to **HB 149**: The Senate has passed **HB 149** by way of Committee Substitute with Senate Floor Amendment No. 1 and respectfully request concurrence of this Honorable Body.

Representative Adkins moved that the rules be suspended to introduce guests, act upon a Legislative Citation and to grant floor privileges to special guests. Agreed.

Representative Adkins moved the adoption of the following Legislation Citation No. 23. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors DUVALL MARTIAL ARTS for the impeccable manner in which the healthy and creative mechanism of martial arts has been utilized to inspire and cultivate the desire to achieve in Kentucky students. By lighting the flame of ambition and achievement Duvall Martial Arts students have become exemplary students in the public school system. For in as much as Duvall Martial Arts has established itself as a nationally recognized expert in martial arts this honorable body commends your dedication to distinguished achievement. (Sponsored by Representative Adkins)

Representative Adkins moved that a call of the roll be taken to show co-sponsors of Legislative Citation No. 23.

On the roll call the vote was yeas 87—Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Nunn, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Jensen moved that the rules be suspended to act upon a Resolution and to introduce guests. Agreed.

Representative Jensen moved the adoption of the following **HR 84**:

HR 84, A RESOLUTION celebrating the one hundred and sixty-six years Laurel County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

WHEREAS, parts of Clay, Knox, Rockcastle, and Whitley Counties were combined to form Laurel County, effective February 13, 1826; and

WHEREAS, it was named for the Laurel River and the abundance of laurel vegetation growing in the area; and

WHEREAS, Laurel County is located in the Cumberland Valley area and London serves as the county seat; and

WHEREAS, the western half of the county is covered by a portion of the Daniel Boone National Forest; and

WHEREAS, the Laurel River forms a portion of the county's southern border and is impounded to create the large Laurel River Lake; and

WHEREAS, Levi Jackson State Park is located in the county just south of London; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to honor Laurel County's acceptance into the Commonwealth; and

WHEREAS, geography has always had an active influence on the lives of Kentuckians; and

WHEREAS, the varying topography within the state created the diversity that has been a part of Kentucky life from the beginning; and

WHEREAS, in many ways this diversity has served the state well; and

WHEREAS, it is appropriate that the motto of our great state is "United We Stand, Divided We Fall" because with minor exceptions, that thought has been central to the survival of Kentucky throughout its history from the tumultuous frontier days to the divisions created by the Civil War, to the pressures of changing economic conditions; and

WHEREAS, through all the peaks and valleys, Kentuckians have drawn upon their inner strengths to survive and prosper;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the citizens of Laurel County upon the occasion of Laurel County's one hundred and sixty-sixth year as a part of the Commonwealth in conjunction with the occasion of Kentucky's Bicentennial Year.

Section 2. That this honorable body commends the people of Laurel County for their dedication toward enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of Laurel County to join in the observance of Kentucky's Bicentennial Celebration on June 1, 1992.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Laurel County Commissioner, County Court House, London, Kentucky 40741.

HR 84 was adopted by voice vote.

Introduction of Bills and Resolutions

HB 500, by Representative Riggs: AN ACT relating to crimes and punishments.

HB 501, by Representative Riggs: AN ACT relating to crimes and punishments.

HB 502, by Representative Noe: AN ACT relating to the Management Improvement Program.

HB 503, by Representative Arnold: AN ACT relating to children.

HB 504, by Representatives Arnold, Mason, Hourigan, Crupper and Farrow: AN ACT relating to corrections.

HB 505, by Representatives Arnold and Morris: AN ACT relating to jailers.

HB 506, by Representatives Arnold, Hancock and Farrow: AN ACT relating to audits.

HB 507, by Representatives Castleman and Curd: AN ACT relating to sales and use tax.

HB 508, by Representative Stokes: AN ACT changing the classification of the city of Graymoor/Devondale, in Jefferson County.

HB 509, by Representative Heleringer: AN ACT relating to personnel with powers of peace officers.

HB 510, by Representative McElroy: AN ACT relating to consumer loan companies.

HCR 93, by Representative Brown: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to study the quality, costs, and employment outcomes for students in the state's private proprietary schools.

HJR 94, by Representative Burch: A JOINT RESOLUTION supporting the full implementation of the Kentucky Early Intervention System and directing the Cabinet for Human Resources to continue to expand upon its efforts to establish comprehensive services for all children with special needs from birth through age two.

HR 95, by Representative Burch: A RESOLUTION adjourning in honor of members not filing for reelection to the House of Representatives.

HR 96, by Representatives Hatcher, Gray, Mason and J. Harper: A RESOLUTION memorializing author Alex Haley and honoring him for enlightening the general public to the meaningful ancestry of America's black citizens.

HR 97, by Representative Lyne: A RESOLUTION honoring the 7th Battalion of the 101st Aviation Regiment, 101st Airborne Division (Air Assault) and their commander Lieutenant Colonel Frank S. Wilmoth.

Representative Hatcher moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hatcher moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION memorializing author Alex Haley and honoring him for enlightening the general public to the meaningful ancestry of America's black citizens.

WHEREAS, to not know one's ancestry is likened to be a brook without a source, a tree without a root; and

WHEREAS, Alex Haley sensed the black American citizens torment over his severed roots and depicted this and the restoration of severed ancestral lines in his Pulitzer Prize winning novel, "Roots: The Saga of an American Family"; and

WHEREAS, in researching "Roots," Alex Haley traveled half a million miles, talked with a tribal historian in Gambia, and pored over papers in more han fifty libraries on three continents; and

WHEREAS, he also booked passage on a freighter from West Africa to the United States, sleeping each night in the hold of the ship, imagining what it was like for his ancestors; and

WHEREAS, Alex Haley was truly a gifted person who wrote a book that was monumental; and

WHEREAS, Alex Haley also wrote "The Autobiography of Malcolm X," and when he died was working on a book about Henning, the small town in western Tennessee where he was reared by his maternal grandmother; and

WHEREAS, though Alex Haley was born in Tennessee, his death was mourned as a special loss to Kentuckians; and

WHEREAS, Alex Haley had been a trustee to Berea College since 1984; and

WHEREAS, Alex Haley made several trips to Kentucky revealing at each stop a personal aspect of his personality; and

WHEREAS, Alex Haley was to speak Saturday to a sellout crowd at the Chestnut Street YMCA Black Achievers Program in Louisville; and

WHEREAS, Alex Haley will long be remembered for bringing pride and enlightenment to people of all colors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the late Alex Haley for enlightening the general public to the meaningful ancestry of America's black citizens.

Section 2. That members of the House of Representatives hereby express their profound sense of bereavement upon the death of Alex Haley and extend to his family its heartfelt sympathy and condolences.

Section 3. That the members of this honorable body praise the monumental impact Alex Haley has had on all Americans.

Section 4. That the Clerk of the House fax a copy of this Resolution to John B. Stephenson, President, Berea College 606-986-4560, promptly.

HR 96 was adopted by voice vote.

Representative Hatcher moved that a call of the roll be taken to show co-sponsors of **HR 96**.

On the roll call the vote was yeas 55—Allen, Ballard, Blandford, Bowling, Brown, Butler, Callahan, Casebier, Castleman, L. Clark, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Gee, Gray, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Kerr, Lewis, Lile, Long, Lyne, Mack, Maggard, Mason, McElroy, Mullinix, Napier, Noe, Noland, Nunn, Palumbo, Rapier, Richards, Richardson, Riner, Sanders, Sheehan, R. Smith, Stokes, Stumbo, Toby, Turner, Wayne, Williams, Worthington, Yates Nays 1—T. Smith.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 72** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker and ordered delivered to the Senate. (Time - 2:24 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 498**

Appropriations and Revenue: **HB 491**

Banking and Insurance: **HB 497**

Business Organizations and Professions: **HB 494**

Cities: **HB 493, HB 499**

Counties and Special Districts: **HB 489, HB 495**

Education : **SJR 36, HB 478**

Elections and Constitutional Amendments: **HB 496, SB 55**

Health and Welfare: **HB 490, SB 129**

State Government: **SB 96, SB 107, SB 111, SJR 7**

Tourism Development and Energy: **HJR 90**

Transportation: **HB 492**

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 106**, by Representative Nunn:

Amend printed copy of **HB 106/HCS** as follows:

On page 6, line 17, following the word “jurisdiction” to add “***, except that no court shall authorize the inspection of any materials pertaining to a criminal investigation or litigation beyond that which is provided by the Rules of Criminal Procedure governing pretrial discovery***”

Floor Amendment No. 3 to the Committee Substitute to **HB 106**, by Representative Ark:

Amend printed copy of **HB 106/HCS** as follows:

On page 6, line 11, bracket and strike through the word “not”

Floor Amendment No. 4 to the Committee Substitute to **HB 106**, by Representative Gedling:

Amend printed copy of **HB 106/HCS** as follows:

On page 12, lines 16 and 17, bracket and strike through “The burden of proof in sustaining the action shall rest with the agency”

On page 12, line 17, delete “,”

On page 12, line 17, bracket and strike through “and”

On page 14, delete the underlined language on lines 23 through 26 in its entirety

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Cities: **HB 414, HB 394**

Banking and Insurance: **HB 466, HB 362**

Economic Development: **HB 343, HB 486**

Education: **HB 488**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 377**, **HB 396**, with Committee Amendment attached thereto, and **HB 401**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 377, AN ACT relating to Revenue and Taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.185 is amended to read as follows:

Income tax returns shall be kept for ***five (5)*** [~~seven (7)~~] years; primary accounting records of tax payments, seven (7) years; and records containing all data of motor vehicle registration, three (3) years. Records of the cabinet which are not required by this section or other statutory provisions to be preserved for a fixed period may be kept or disposed of according to the discretion of the cabinet.

HB 396, AN ACT relating to escheats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 393.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) “Banking organization” means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state;

(b) “Business association” means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals;

(c) "Financial organization" means any savings and loan association, building and loan association, credit union, cooperative bank or investment company, engaged in business in this state;

(d) "[~~Life~~] Insurance corporation" means any corporation ***providing insurance as that term is defined in KRS 304.1-030*** [~~or association transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities~~];

(e) "Claim" means to demand payment or surrender of property from the person whose duty it is to pay the claimant, or surrender to him the property involved;

(f) "Secretary" means the secretary of revenue;

(g) "Cabinet" means the revenue cabinet;

(h) "Person" means any individual, state or national bank, partnership, joint stock company, business, trust, association, corporation, or other form of business enterprise, including a receiver, trustee or liquidating agent*;*

(i) "Finder" means any person who, for a fee, acts as agent on behalf of a claimant of property reported as abandoned.

(2) This chapter does not apply to bonds of counties, cities, school districts or other tax levying subdivisions of this state [~~or to any money, funds or other intangible property at any time held or owing for any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining~~]. The provisions of this paragraph shall be effective retroactively to all ***the*** [~~such~~] moneys, funds, or other intangible property held or owing by any person on June 1, 1960 or thereafter.

Section 2. KRS 393.020 is amended to read as follows:

If any ***personal*** property having a situs in this state has been devised or bequeathed to any person, and is not claimed by that person or by his heirs, distributees or devisees within ***five (5)*** [~~eight (8)~~] years after the death of the testator, or if the owner of any property having a situs in this state dies without heirs or distributees entitled to it, and without disposing of it by will, it shall vest in the state, subject to all legal and equitable demands. [~~Also,~~] Any ***personal*** property abandoned by the owner, except a perfect title to a corporeal hereditament, shall vest in the state, subject to all legal and equitable demands. Any property that vests in the state under this section shall be liquidated, and the proceeds, less costs, fees, and expenses incidental to all legal proceedings of the liquidation shall be paid to the cabinet.

Section 3. KRS 393.040 is amended to read as follows:

If any devisee or legatee, or his heir, devisee or distributee, has failed for ***five (5)*** [~~eight (8)~~] years to claim his legacy or devise, the personal representative of the testator, or other person possessing it shall, after deducting the legal liabilities thereon, pay and deliver it, and the net profits from it, to the cabinet.

Section 4. KRS 393.050 is amended to read as follows:

When a person owning any property having a situs in this state is not known to be living for ***five (5)*** [~~seven (7)~~] successive years, and neither he nor his heirs, devisees, or distributees can be located or proved to have been living for ***five (5)*** [~~seven (7)~~] successive years, he shall be presumed to have died without heirs, devisees, or distributees, and his property shall be liquidated and the proceeds, less costs incident to the liquidation and any legal proceedings, and the liabilities which have been properly claimed and approved against it, shall be paid to the cabinet.

Section 5. KRS 393.060 is amended to read as follows:

The following property held or owing by a banking or financial organization is presumed abandoned:

(1) Any deposit, [~~(~~]legal, beneficial, equitable or otherwise,[~~)payable on demand~~] in any ***banking or financial organization*** [~~bank or trust company~~] in this state, ***including individual retirement accounts,*** together with the interest thereon, unless the owner has within ***five (5)*** [~~ten (10)~~] years:

(a) Negotiated in writing with the ***banking or financial organization*** [~~bank or trust company~~] concerning ***the deposit*** [~~it~~];

(b) Been credited with interest on the passbook or certificate of deposit on his request;

(c) Had a transfer, disposition of interest, or other transaction noted of record in the books or records of the ***banking or financial organization*** [~~bank or trust company~~]; or

(d) Increased or decreased the amount of the deposit;

(2) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that ***have*** [~~with the exception of traveler's checks has~~] been outstanding for more than ***five (5)*** [~~ten ((10)~~] years from the date ***the check or written instrument*** [~~it~~] was payable, or from the date of its issuance if payable on demand, [~~or, in the case of traveler's checks that has been outstanding for more than fifteen (15) years from the date of its issuance~~] unless the owner has within ***five (5) years*** [~~ten (10) years or within fifteen (15) years in the case of traveler's checks~~] corresponded in writing with the banking or financial organization concerning ***the check or written instrument*** [~~it~~], or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization;

(3) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository or agency or collateral deposit box in this state on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than ***five (5)*** [~~ten (10)~~] years from the date on which the lease or rental period expired.

Section 6. KRS 393.062 is amended to read as follows:

(1) "Unclaimed funds," as used in this section, means all moneys held and owing by any [~~life~~] insurance corporation unclaimed and unpaid for more than ***five (5)*** [~~seven (7)~~] years after the moneys became due and payable as established from the records of the corporation under any contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if ***the*** [~~such~~] policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding ***five (5)*** [~~seven (7)~~] years, (a) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (b) corresponded in writing with the life insurance corporation concerning the policy. ***All*** moneys otherwise payable according to the records of ***all insurance corporations*** [~~the corporation~~] are deemed due and payable ***if unclaimed and unpaid for more than five (5) years*** [~~although, the policy or contract has not been surrendered as required~~].

(2) Unclaimed funds[~~, as defined in this section,~~] held and owing by ***an*** [~~a life~~] insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of ***the*** [~~such~~] person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of corporation.

Section 7. KRS 393.064 is amended to read as follows:

Any stock or other certificate of ownership, ***including underlying shares,*** or any dividend, profit, distribution, interest, payment, or principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within ***five (5)*** [~~seven (7)~~] years after the date prescribed for payment or delivery, is presumed abandoned if:

(1) It is held or owing by a business association organized under the laws of or created in this state; or

(2) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

Section 8. KRS 393.066 is amended to read as follows:

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within ***five (5)*** [~~seven (7)~~] years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a banking organization, [~~or~~] a financial organization, or [~~by~~] a business association organized under the laws of or created in this state; or

(2) If it is held by a business association doing business in this state, or any agent or fiduciary acting for or under contract with a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person.

Section 9. KRS 393.080 is amended to read as follows:

The following funds held or owing are presumed abandoned:

(1) Any deposit of money, stocks, bonds, or other credits made to secure payment for services rendered or to be rendered, or to guarantee the performance of services or duties, or to protect against damage or harm, and the increments thereof, unless claimed by the person entitled thereto within ***five (5)*** [~~seven (7)~~] years after the occurrence of the event that would obligate the holder or depository to return it or its equivalent.

(2) Any sum which a public utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than ***five (5)*** [~~seven (7)~~] years after the date it became payable in accordance with the final determination or order providing for the refund.

Section 10. KRS 393.090 is amended to read as follows:

Except as otherwise provided in KRS 393.010, all intangible property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state by any person and has remained unclaimed by the owner for more than ***five (5)*** [~~seven (7)~~] years after it became payable or distributable is presumed abandoned.

Section 11. KRS 393.092 is amended to read as follows:

If specific property which is subject to the provisions of KRS 393.060, 393.064, 393.066, [~~393.070~~] and 393.090 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this state and subject to this chapter if:

(1) It may be claimed as abandoned or escheated under the laws of such other state; and

(2) The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this state by a holder who is subject to the jurisdiction of this state.

Section 12. KRS 393.110 is amended to read as follows:

(1) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the cabinet with respect to the property annually as of July 1. The report shall be filed in the office of the cabinet on or before ***July*** [~~September~~] 1 of each year [~~for the preceding July 1~~]. The report shall include:

(a) [~~Except with respect to travelers' checks and money orders,~~] The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] or more presumed abandoned under this chapter and in the case of unclaimed funds of [~~life~~] insurance corporations the full name of the insured or annuitant and his last known address according to the records of the [~~life~~] insurance corporation;

(b) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] each may be reported in the aggregate. The holder of abandoned property shall maintain its records for a period of five (5) years from the date of its report for items reported in the aggregate. If the owner of property reported in the aggregate makes a valid claim therefor within five (5) years, the holder shall refund the property and deduct the amount refunded from the next report due to the cabinet;

(c) The date when the property became payable, demandable, or returnable, and the date of the last known transaction with the owner with respect to the property if readily available; and

(d) Any other information which the cabinet prescribes by administrative regulations necessary for the administration of this chapter. [~~The report shall be made in duplicate; the original shall be retained by the cabinet, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days said copy on the courthouse door or the courthouse bulletin board, and also to publish said copy pursuant to KRS Chapter 424; except the sheriff shall not be required to publish any item with a fair cash value of twenty-five dollars ($25) or less. The list shall be published within thirty (30) days of its receipt by the sheriff and this publication shall constitute compliance with the requirements of KRS Chapter 424. The cost of the publication shall be paid by the state. The sheriff shall immediately certify in writing to the cabinet the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all interested parties.~~]

(e) The report shall be signed by a representative of the holder and shall be as a sworn statement that the holder has completed a good faith effort to locate the owners;

(f) The cabinet shall cause to be printed a list of the owners' names of all amounts and items reported as abandoned valued at one hundred dollars ($100) or more and the owners' addresses, if known. The list shall be distributed to each county clerk and each public library in the Commonwealth on or before November 1 of each year. The list shall include instructions for claiming the property listed therein.

(2) Within sixty (60) days after the receipt of the report required by subsection (1) of this section, the cabinet shall mail notice to each person having an address listed [~~therein~~] who appears to be entitled to property presumed abandoned under this chapter; except the cabinet shall not be required to mail a notice to any person whose name appears on the abandoned property list where the fair cash value of the property is ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] or less. The notice shall contain:

(a) A statement that according to a report filed with the cabinet properties are being held to which the addressee appears entitled;

(b) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the cabinet to whom all further claims must be directed.

(3) Any person who has made a report of any estate or property presumed abandoned, as required by this chapter, shall, ***on or before January 1*** [~~between November 1 and November 15~~] of each year, turn over to the cabinet all property [~~so~~] reported; but if the person making the report or the owner of the property shall certify to the cabinet that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall report the existence of any fact or circumstance which has a substantial tendency to rebut ***the*** [~~such~~] presumption, [~~then,~~] the person reporting or holding the property shall not be required to turn the property over to the cabinet except on order of court. If a person files an action in court claiming any property which has been reported under the provisions of this chapter, the person reporting or holding ***the*** [~~such~~] property shall be under no duty while any [~~such~~] action is pending to turn the property over to the cabinet, but shall have the duty of notifying the cabinet of the pendency of ***the*** [~~such~~] action.

(4) The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this chapter and nothing therein shall be construed otherwise.[~~; and~~] The Commonwealth may institute an action to recover ***the*** [~~such~~] property [~~as is~~] presumed abandoned, whether it has been reported or not, and may include in one (1) petition all ***the*** [~~such~~] property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

Section 13. KRS 393.120 is amended to read as follows:

(1) Tangible personal property [~~required by KRS Chapter 393~~] to be liquidated in order to permit payment to the cabinet shall be delivered ***by the cabinet*** to the master commissioner of the county in which ***the*** [~~such~~] property is located. The master commissioner shall, within a reasonable time, advertise the property for sale [~~in accordance with KRS Chapter 424~~] and shall sell it at public auction to the highest bidder. The master commissioner shall pay to the cabinet the proceeds of ***the*** [~~such~~] sale, less costs incidental to the liquidation

or any legal proceedings, and any liabilities against the property which have been properly claimed and approved.

(2) For intangible personal property [~~required by KRS Chapter 393~~] to be liquidated [~~so as~~] to permit payment to the cabinet, the cabinet shall require the agencies or holders of abandoned intangible personal property to sell or dispose of the property on a given date at the quoted market value in the case of property listed in recognized market exchanges, or, in the case of property not listed in a recognized market exchange, at a price recommended by the cabinet or at the highest price offered at a public sale, whichever is greater. ***If there is not a readily available market for*** [~~In the event that~~] the intangible property [~~is of a nature such that there is not a readily available market~~], the cabinet may offer the property to the highest bidder at public sale at Frankfort, or in whatever city in the state affords, in its judgment, the most favorable market for the particular property involved. If a sale is required to permit payment to the cabinet, the cabinet may decline the highest bid and reoffer the property for sale if it considers the price offered insufficient. The sale shall be advertised by publication pursuant to KRS Chapter 424 in the county where the property was found or abandoned, and in the county where the sale is to be made. The sale shall be held at the courthouse door.

Section 14. KRS 393.130 is amended to read as follows:

Upon the payment or delivery of abandoned property to the cabinet, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the cabinet under this chapter is relieved of all liability***,*** to the extent of the value of the property [~~so~~] paid or delivered***,*** for any claim which then exists or which thereafter may arise or be made in respect to the property. [~~Any holder of deposits or any life insurance company who has paid moneys to the cabinet pursuant to this chapter shall make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the cabinet shall forthwith reimburse the holder or company. Notwithstanding the provisions of KRS 393.140 posting or advertising is not required in the event payment is made to persons entitled thereto by holders of deposits of life insurance companies in compliance with this section. The claim shall be paid without deduction for the cost of advertising or services provided in KRS 393.115.~~]

Section 15. KRS 393.130 is amended to read as follows:

Upon the payment or delivery of abandoned property to the cabinet, the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the cabinet under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder of deposits or any life insurance company who has paid moneys to the cabinet pursuant to this chapter shall make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the cabinet shall forthwith reimburse the holder or company. Notwithstanding the provisions of KRS 393.140 posting or advertising is not required in the event payment is made to persons entitled thereto by holders of deposits of life insurance companies in compliance with this section. [~~The claim shall be paid without deduction for the cost of advertising or services provided in KRS 393.115.~~]

Section 16. KRS 393.140 is amended to read as follows:

(1) Any person ***as the personal representative of an estate,*** claiming an interest in any property paid or surrendered to the state in accordance with ***this chapter*** [~~KRS 393.020 to 393.050~~] who was not actually served with notice, and who did not appear, and whose claim was not considered during the action or at the proceedings that resulted in its payment to the state, may[~~, within five (5) years after the judgment,~~] file his claim to it with the cabinet.

(2) [~~Any person claiming an interest in any estate or property paid or surrendered to the state in accordance with KRS 393.060 to 393.120, that was not subsequently adjudged under the procedure set out in KRS 393.230 to have been actually abandoned, or owned by a decedent who had no heir, distributee, devisee or other person entitled under the laws of this state relating to wills, descent and distribution to take the legal or equitable title, may file his claim to it at any time after it was paid to this state.~~

~~(3)~~] The claimant shall[~~, within fifteen (15) days after filing any claim permitted under this section in excess of twenty-five dollars ($25),~~] publish notice of the claim pursuant to KRS Chapter 424 in the county in which the property was held before being transferred to the state. [~~If the claim is for twenty-five dollars ($25) or less, the claimant shall post at the courthouse door and three (3) other conspicuous places in that county, and shall file proof of publication or posted notice with the cabinet. No such claim shall be allowed until fifteen (15) days after proof of the notice is received by the department at its offices in Frankfort.~~]

(3) Any person claiming an interest in any property paid or surrendered to the cabinet in his name under this chapter may file his claim to it at any time after it was paid to the state.

Section 17. KRS 393.150 is amended to read as follows:

The ***secretary*** [~~commissioner~~] shall consider any claim or defense permitted to be filed before the cabinet and hear evidence concerning it. If the claimant establishes his claim, the ***secretary*** [~~commissioner~~] shall, [~~when the time for appeal or further legal procedure has expired,~~] authorize payment to him of a sum equal to the amount paid into the State Treasury in compliance with this chapter. The decision shall be in writing and shall state the substance of the evidence heard by the ***secretary*** [~~commissioner~~], if a transcript is not kept. The decision shall be a matter of public record.

Section 18. KRS 393.160 is amended to read as follows:

Any person dissatisfied with the decision of the ***secretary*** [~~commissioner~~] may, within sixty (60) days, appeal from it to the Franklin Circuit Court or file an action in that court to vacate the decision. In either event, the proceedings shall be de novo, and no transcript of the record before the commissioner shall be required to be kept unless requested by the claimant. In ***the*** [~~such~~] proceeding, the commissioner shall be made a party defendant, and all other persons required by law to be made parties in actions in rem or quasi in rem shall be made parties. Any party adversely affected by the decision of the Franklin Circuit Court may appeal to the Court of Appeals in accordance with the Rules of Civil Procedure. Upon an appeal the state shall not be required to make a supersedeas bond. The provisions of this section relating to the decision of the ***secretary*** [~~commissioner~~] and appeals therefrom shall also apply to a decision of the ***secretary*** [~~commissioner~~] rendered under authority of KRS 393.110.

Section 19. KRS 393.180 is amended to read as follows:

Any legal proceeding to enforce ***the provisions of this chapter*** [~~KRS 393.020 to 393.050~~] and to recover any sum due the state thereunder shall be instituted, on the relation of the ***secretary*** [~~commissioner~~], by the county attorney of the county in which ***the*** [~~any such~~] property is located. The petition and all necessary pleadings shall be sent to the ***secretary*** [~~commissioner~~] for his signature and approval. The petition shall be accompanied by an affidavit of the county attorney, stating the facts on which it is based. For all other pleadings, there shall be a statement by the county attorney of the reason for the particular pleading.

Section 20. KRS 393.190 is amended to read as follows:

On any action filed by a county attorney under the provisions of this chapter, the assistant Attorney General provided for in KRS 15.105 shall offer assistance and suggestions to the county attorney in the preparation of the petition or any pleadings, and revise and correct them as he considers necessary, subject to the ultimate approval of the ***secretary*** [~~commissioner~~], when he is required to sign them.

Section 21. KRS 393.200 is amended to read as follows:

If the county attorney declines to perform the duties imposed upon him by this chapter, they may be performed by the ***secretary*** [~~commissioner~~]. When he considers it to the best interest of the state, the ***secretary*** [~~commissioner~~] may institute any action authorized by this chapter to be brought by the county attorney, or join the county attorney in the active prosecution of any [~~such~~] action.

Section 22. KRS 393.210 is amended to read as follows:

If the property of a person coming within the purview of ***this chapter*** [~~KRS 393.020 to 393.050~~] is located in two ***(2)*** or more counties, all the property may be included in one ***(1)*** action. The county attorneys of all counties in which ***the*** [~~such~~] property is located may join in the prosecution of the proceeding.

Section 23. KRS 393.220 is amended to read as follows:

Pending the outcome of an action, the court may make ***the*** [~~such~~] disposition of the [~~land or~~] tangible personal property involved as it considers best from the standpoints of use, rents, interest, and profits. If the use of the property is given to the claimant by the court, he shall be held accountable for returns and profits arising from it if the state is successful in the proceeding.

Section 24. KRS 393.230 is amended to read as follows:

(1) If any person or the agent of any court refuses to pay or surrender intangible property to the cabinet as provided in KRS 393.060 to 393.110, an equitable proceeding may be brought on the relation of the ***secretary***

[~~commissioner~~] to force payment or surrender. All property subject to KRS 393.060 to 393.110 may be listed and included in a single action.

(2) If any intangible property is turned over to the cabinet on presumption of abandonment, in accordance with KRS 393.060 to 393.120, the ***secretary*** [~~commissioner~~] may at any subsequent time institute proceedings to establish conclusively that it was actually abandoned, or that the owner has died and there is no person entitled to it.

Section 25. KRS 393.240 is amended to read as follows:

(1) If any person has property coming within the purview of KRS 393.020 to 393.050, and also of KRS 393.060 to 393.110, the actions required to be brought by the county attorney and the ***secretary*** [~~commissioner~~] may be joined, but joinder is not required, and if separate actions are brought, they shall not be considered as coming within the rule against splitting a cause of action. The county attorney is not charged with the duty of enforcing sections KRS 393.060 to 393.120, 393.150 or 393.160.

(2) The procedure for all actions under this chapter shall be filed as equity actions and follow the procedure provided by the Rules of Civil Procedure, unless otherwise provided in this chapter.

Section 26. KRS 393.250 is amended to read as follows:

(1) Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of ***receipts of unclaimed property paid*** [~~appropriations made~~] to the cabinet.

(2) The county attorney shall act as agent of the cabinet for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall promptly remit the judgment recovered to the cabinet with ***the*** [~~such~~] information [~~relating thereto as~~] the cabinet requires.

Section 27. KRS 393.280 is amended to read as follows:

(1) The cabinet, through its employees, may examine all records of any person where there is reason to believe that there has been or is a failure to report property that should be reported under this chapter.

(2) The ***secretary*** [~~commissioner~~] may promulgate any reasonable and necessary rules for the enforcement of this chapter, and govern hearings held before him. He may delegate in writing to any regular employee of the cabinet authority to perform any of the duties imposed on him by this chapter, except the promulgation of rules.

(3) Any person, banking organization, insurance company, financial organization, or business association who fails to supply the information and to remit the unclaimed property as required under KRS 393.110 shall be assessed an amount equal to twice the estimated value of the unclaimed property, and penalty in an amount equal to twenty-five percent (25%) of the value of unclaimed property found to be due. In addition, interest shall be assessed on the unpaid amount at the tax interest rate as defined in KRS 131.010(6).

SECTION 28. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) Finders shall provide to the cabinet written authorization from the claimant of abandoned property before the finder will be permitted to represent that claimant in dealing with the cabinet in all matters relative to the claim.

(2) Finders may represent claimants for a fee not exceeding ten percent (10%) of the value of the abandoned property represented by the claim.

Section 29. The following KRS sections are repealed:

393.070 Deposits not payable on demand; when presumed abandoned.

393.115 Advertising expenses.

The Committee Amendment No. 1 to **HB 396** is as follows:

Amend printed copy of **HB 396** as follows:

On page 7, line 13, before the word "Any", by inserting "***Except as provided in KRS 272.291***"; and

On page 9, line 12, before the word "Any" by inserting "***Except as provided in KRS 272.291***".

HB 401, · AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1991*** [~~1989~~], exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and tier I railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990; and

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), [~~and~~] (q), ***and (s)*** of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act shall be effective for taxable years beginning after December 31, 1991.

The Committee Substitute to **HB 401** is as follows:

HB 401, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1991*** [~~1989~~], exclusive of any amendments made subsequent to that date***, other than amendments that extend provisions in effect on December 31, 1991, that would otherwise terminate,*** and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and [~~tier I~~] railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990; and

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), [~~and~~] (q)***, and (s)*** of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act shall be effective for taxable years beginning after December 31, 1991.

The Committee on Appropriations and Revenue reported **HB 399** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 399, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.066 is amended to read as follows:

(1) ***A resident individual*** [~~Individuals~~] whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and 155.440.

(2) For a husband and wife [~~living together, whether~~] filing jointly [~~or separately~~], the "low income" tax credit shall be computed on the basis of their ***joint*** [~~combined~~] adjusted gross income and shall be deductible from their ***joint*** [~~combined~~] tax liability. ***For a husband and wife living together, whether filing separate returns or separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed adjusted gross income of less than zero shall be treated as zero, and shall be deductible from their combined tax liability.***

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

The Committee on Banking and Insurance reported **HB 316**, with Committee Amendment attached thereto, and **HB 419** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 316, AN ACT relating to mortgages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Line of credit" means a note, commitment, instrument, or agreement in writing between a lender and a debtor pursuant to which:

1. The lender may extend loans, advances, or other extensions of credit to, or for the benefit of, the debtor; and

2. The total amount of loans, advances, or extensions of credit outstanding may increase or decrease from time to time.

(b) "Revolving credit plan" means an arrangement between a lender and a debtor pursuant to which:

1. The lender may extend credit to the debtor by permitting the debtor to make purchases of goods, services, and anything else of value or obtain loans, from time to time, directly from the bank or indirectly by use of a credit card, check, or other device, as the plan may provide;

2. The unpaid balances of purchases made, the principal of loans obtained, and finance and other appropriate charges are debited to the debtor's account;

3. A finance charge, if made, is not precomputed, but is computed on the outstanding unpaid balances of the debtor's account from time to time; and

4. The lender renders bills or statements to the debtor at regular intervals, which need not be a calendar month (the "billing cycle"), the amount of which bills or statements is payable by and due from the debtor on a specified date stated in the bill or statement or, at the debtor's option, may be paid in installments.

(2) (a) Any mortgage of real property may secure payment of any or all sums due and payable by the debtor under a line of credit or under a revolving credit plan if the mortgage:

1. States, in substance or effect, that the parties intend that the mortgage secures the line of credit or revolving credit plan;

2. Specifies the maximum principal amount of credit which may be extended under the line of credit or the maximum credit limit of the revolving credit plan which, in each case, may be outstanding at any time or times under the line of credit or plan, and which is to be secured by the mortgage.

(b) The mortgage shall remain in full force and effect until released of record as provided in subsection (5) of this section and the validity, continued effectiveness, and priority of the mortgage shall not be affected or impaired by the fact that no loan, advance, or extension of credit is made at the time of the execution or recordation of the mortgage, or that the outstanding balance due under the line of credit or revolving credit plan secured by the mortgage is zero at any time or times.

(3) Except as provided in paragraphs (a), (b), (c), and (d) of this subsection or in any written subordination or other written agreement entered into by the lender relating to the priority of the mortgage referred to in subsection (2) of this section, the lien of the mortgage referred to in subsection (2) of this section shall be superior to any liens or encumbrances of any kind created or arising after recordation of the mortgage, even to the extent of sums advanced by the lender with actual or constructive notice of a subsequently created lien, but the lien of the mortgage shall be inferior to:

(a) Real estate tax liens and liens for public improvement assessments explicitly stated by statute to be superior to other nontax liens;

(b) Any construction funds advanced under, or any additional indebtedness incurred within the meaning of KRS 382.520 and secured by, the lien of any mortgage recorded prior to the mortgage referred to in subsection (2) of this section;

(c) Any sums specifically authorized to be advanced under any mortgage recorded prior to the mortgage referred to in subsection (2) of this section for, or paid on account of, taxes, charges, fines, and assessments against covering the property described in the mortgage or to effect insurance thereon; or

(d) Valid mechanics' or materialmen's liens, with respect to which all filing and other requirements of KRS Chapter 376 have been satisfied, for the performance of labor or furnishing of materials for those purposes set forth in KRS 376.010(1) with respect to an owner-occupied, single or double-family dwelling, but only to the extent of sums advanced by the lender after the filing of the statement required under the applicable section of KRS Chapter 376.

(4) (a) The debtor or his agent may, at any time of times, request the lender to amend the mortgage to reduce the maximum amount of credit specified in the mortgage referred to in subsection (2) of this section which may be extended under the line of credit or revolving credit plan by sending by certified mail, return receipt request, or physically delivering to the lender at the address and to the person or department, if any, specified in the agreement establishing the line of credit or revolving credit plan, a written request signed and acknowledged by all debtors obligated under the line of credit or revolving credit plan. The request shall:

1. Specifically, and not by implication, describe the line of credit or revolving credit plan by account or other identifying number and request that the line of credit or plan be amended by reducing the maximum amount of credit which may be extended under the line of credit or the amount of the credit limit of the revolving credit plan which, in either case, may be outstanding from time to time under the line of credit or revolving credit plan, to an amount specified in the notice. The amount may not, however, be less than the balance owing under the line of credit or revolving credit plan at the time the request referred to in this paragraph is received;

2. Identify the real property covered by the mortgage referred to in subsection (2) of this section to which the request relates and give the date, volume, and first page of the records of the county clerk where the mortgage is recorded; and

3. Be accompanied by funds sufficient to pay the filing fee for recording the amendment referred to in paragraph (b) of this subsection.

(b) Within ten (10) business days after actual receipt of the request referred to in paragraph (a) of this subsection and of the funds sufficient to pay the filing fee, the lender shall record in the office of the county clerk in which the mortgage referred to in subsection (2) of this section is recorded an amendment to the mortgage reflecting the reduction in the maximum amount of credit at any time or times outstanding which may be extended under the line of credit or revolving credit plan secured by the mortgage.

(c) If within the ten (10) day period the lender fails to record the amendment to the mortgage referred to in paragraph (b) of this subsection, the debtor may record a copy of the written request referred to in paragraph (a) of this subsection upon payment of the same filing fee as provided for in an amendment to a mortgage. If the request complies with all the requirements of this section, the recording of the request shall constitute and be deemed to be an amendment to the line of credit or revolving credit plan and the mortgage to the extent described in the request.

(5) The lender shall be obligated to release the lien of the mortgage referred to in subsection (2) of this section:

(a) If the line of credit or revolving credit plan is closed or terminated in accordance with its terms and all amounts owed by the debtor thereunder are paid in full; or

(b) Upon the written request to release the mortgage signed by all debtors or their agents obligated under the line of credit or revolving credit plan, which notice shall be sent by certified mail, return receipt requested, or physically delivered to the lender. The lender shall file a properly executed satisfaction of the mortgage upon payment of the balance owing under the line of credit or revolving credit plan at the time the request is received. From and after the request, the debtor shall have no right to request or demand that the lender extend credit under the line of credit or revolving credit plan, and the lender shall be released from all obligations and commitments to extend credit thereunder.

(6) The provisions of KRS 382.330, 382.365, 382.430, and 382.520 shall not be applicable to the mortgage referred to in subsection (2) of this section.

(7) This section is not exclusive and shall not prohibit the use of other types of mortgages or other instruments given for the purpose of creating a lien on real property permitted by law.

Section 2. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals and extensions of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured thereby. Except as provided in subsection (3) of this section, the mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien, provided, however, any mortgagee upon receipt of a written request of a mortgagor must release of record the lien to secure additional indebtedness as exceeds the balance of such additional indebtedness at the time of ***the*** [~~such~~] request.

(3) (a) The written request referred to in subsection (2) of this section shall be signed by the mortgagor

or his agent or attorney, and shall set forth a description of the real property to which the request relates, the date, parties to, the volume and initial page of the record of the mortgage referred to in subsection (1) of this section, and a description of the nature, amount and holder of the lien or encumbrance which the mortgagor intends to place upon such real property. ***The*** [~~Such~~] request shall be deemed to have been received by the holder of the mortgage referred to in subsection (1) of this section only when delivered to ***the*** [~~such~~] holder by certified mail, return receipt requested, at the address of the holder appearing of record on ***the*** [~~such~~] mortgage or an assignment thereof;

(b) If within ten (10) business days after receipt of the written request referred to in this subsection, the holder of the mortgage referred to in subsection (1) of this section fails to release that amount of the lien to secure additional indebtedness to the extent described in ***the*** [~~such~~] request, the mortgagor may record in the office of the county clerk in which the mortgage referred to in subsection (1) of this section is recorded a copy of ***the*** [~~such~~] written request upon payment of the same filing fee as provided for a release of a mortgage;

(c) If, after a copy of ***the*** [~~such~~] written request is recorded, an advance is made by the holder of the mortgage referred to in subsection (1) of this section, then the lien of ***the*** [~~such~~] mortgage for the unpaid balance of the advance so made shall be subordinate to the lien or encumbrance described in ***the*** [~~such~~] request[~~; provided, that any advance made pursuant to a line of credit shall not be subordinate to the lien or encumbrance described in such request unless such request specifically, and not by implication, describes such line of credit by account or other identifying number and states that any advance thereafter made pursuant to such plan is intended to be subordinated as aforesaid~~].

The Committee Amendment No. 1 to **HB 316** is as follows:

Amend printed copy of **HB 316** as follows:

On page 1, line 18 by deleting "***bank***" and inserting in lieu thereof "***lender***"; and

On page 4, line 16 by deleting "***of***" and inserting in lieu thereof "***or***"

On page 5, line 18 by inserting after "***recorded***" and before the semicolon by inserting "***, which information shall be provided to the debtor within sixty (60) days of recording by the lender***"

HB 419, AN ACT relating to exemptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.005 is amended to read as follows:

As used in this chapter:

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(4) The terms "household furnishings, jewelry, personal clothing, and ornaments" mean clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of an individual and the individual's dependents, but do not include:

(a) Works of art;

(b) Electronic entertainment equipment (except to the extent of one (1) television and one (1) radio);

(c) Antiques; and

(d) Jewelry other than wedding rings.

The Committee on Judiciary reported **HB 270, HB 277, HB 278, HB 279, HB 320, HB 321, HB 334, HB 351** and **HB 409** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 270, AN ACT relating to the Kentucky Uniform Principal and Income Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Income beneficiary" means the person to whom income is currently payable or for whom it is accumulated for distribution as income or a tenant who is entitled to the beneficial use of principal currently and for a time prior to its distribution.

(2) "Inventory value" means the basis for federal income tax purposes;

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal;

(4) "Trustee" means an original trustee and any successor or added trustee.

SECTION 2. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust shall be so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

(a) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of the Act;

(b) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this Act; or

(c) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.

(2) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to the provision of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Income shall mean the return in money or property derived from the use of principal, including return received as:

(a) Rent of real or personal property, including sums received for cancellation or renewal of a lease;

(b) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal, except as provided in Section 7 on bond premium and bond discount;

(c) Income earned during administration of a decedents estate, as provided in Section 5;

(d) Corporate distributions, as provided in Section 6;

(e) Accrued increment on bonds or other obligations issued at discount, as provided in Section 7;

(f) Receipts from business and farming operations, as provided in Section 8;

(g) Receipts from disposition of natural resources, as provided in Sections 9 and 10;

(h) Receipts from other principal subject to depletion, as provided in Section 11; and

(i) Receipts from disposition of underproductive property, as provided in Section 12.

(2) Principal shall mean the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal shall include:

(a) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;

(b) Proceeds of property taken on eminent domain proceedings;

(c) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;

(d) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions, as provided in Section 6;

(e) Receipts from the disposition of corporate securities, as provided in Section 7;

(f) Royalties and other receipts from disposition of natural resources, as provided in Sections 9 and 10;

(g) Receipts from other principal subject to depletion, as provided in Section 11;

(h) Any profit resulting from any change in the form of principal, except as provided in Section 12 on underproductive property;

(i) Receipts from disposition of underproductive property, as provided in Section 12; and

(j) Any allowances for depreciation established under Section 8 and paragraph (b) of subsection (1) of Section 13.

(3) After determining income and principal in accordance with the terms of the trust instrument or of this Act, the trustee shall charge to income or principal expenses and other charges, as provided in Section 13.

SECTION 4. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it shall become subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(2) In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will:

(a) Receipts due but not paid at the date of death of the testator shall be principal; and

(b) Receipts in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death shall be principal, and the balance shall be income.

(3) In all other cases, any receipt from an income producing asset shall be income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

(4) On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, to the extent the income beneficiary would have been entitled but for the termination of the income interest, shall be entitled to:

(a) Income undistributed on the date of termination;

(b) Income due but not paid to the trustee on the date of termination; and

(c) Income in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due on the date of termination, accrued from day to day.

(5) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Unless the will otherwise provides and subject to subsection (2), all expenses incurred in connection with the settlement of a decedent's estate, including, but not limited to, debts, funeral expenses, estate and inheritance taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and accountants, compensation of personal representatives except commissions computed on income, and court costs shall be charged against the principal of the estate.

(2) Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this Act and distributed as follows:

(a) To specific non-pecuniary legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses attributable to management and operation of the property, and taxes imposed on income derived from the property, excluding taxes on capital gains, which accrue during the period of administration;

(b) To all other legatees and devisees, except specific legatees of pecuniary bequests not in trust, the balance of the income, less the balance of taxes, ordinary repairs, and other expenses attributable to management and operation of all property from which the estate is entitled to income, and the balance of taxes imposed on income, excluding taxes on capital gains, which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value.

(3) To specific legatees of pecuniary bequests not in trust, who shall receive only the sum provided in the will, no income shall be distributed except as otherwise provided in KRS 394.520.

(4) Income received by a trustee under subsection (2) shall be treated as income of the trust.

SECTION 6. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, shall be principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right shall be principal.

(2) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution shall be principal if the distribution is pursuant to:

(a) A call of shares;

(b) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or

(c) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, including cash pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(3) Distributions made from ordinary income, as it is determined for federal income tax purposes, by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust shall be income. All other distributions made by a regulated investment company or by a qualifying real estate investment trust including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, shall be principal.

(4) Except as provided in subsection (1), (2), and (3), all corporate distributions shall be income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections (2) and (3), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen shall be income.

(5) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this Act concerning the source or character of dividends or distributions of corporate assets.

SECTION 7. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Bonds or other obligations for the payment of money shall be principal at their inventory value, except as provided in subsection (2) for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations shall be principal.

(2) The increment in value of a bond or other obligation for the payment of money, bearing no stated interest or containing no provision for annual interest payments, but payable or redeemable at maturity or at a future time at an amount in excess of the price at which it was issued or purchased, if purchased after issuance, shall be distributable as income. If the increment in value accrues and becomes payable pursuant to a fixed schedule of appreciation, it may be distributed to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when the increment is realized by sale, redemption, or other disposition. The trustee may distribute from principal to the income beneficiary an amount equal to the income tax payable by the beneficiary as a result of the original issue discount reportable by the beneficiary for income tax purposes. When any amount is distributed as income but out of principal under this section, the principal shall be reimbursed for the distributed amount from the increment when realized.

SECTION 8. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If any part of the principal is used in the continuance of a business, the net profits of the business, computed in accordance with generally accepted accounting practices for a comparable business, shall be income. If a loss results in any fiscal or calendar year, the loss shall fall on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.

(2) Generally accepted accounting practice shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

SECTION 9. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, other interests in minerals or other natural resources in, on or under land, the receipts after taking the natural resources from the land shall be allocated as follows:

(a) If received as rent on a lease or extension payments on a lease, the receipts shall be income;

(b) If received from a production payment, the receipts shall be income to the extent of any factor for interest or its equivalent provided in the instrument governing the production payment. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal shall be income;

(c) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph, whether or not any natural resource was being taken from the land at the time the trust was established. There shall be added to principal as an allowance for depletion the percentage of gross receipts that is allowed to the trust as a deduction for depletion in computing taxable income for federal income tax purposes, but not to exceed fifty percent (50%) of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion. The balance of the gross receipts after payment therefrom of all expenses, direct and indirect, shall be income.

(2) If a trustee, on the effective date of this Act, held an item of depletable property of a type specified in this section, he shall allocate receipts from the property in the manner used before the effective date of this Act, but as to all depletable property acquired after the effective date of this Act by an existing or new trust, the method of allocation provided herein shall be used.

(3) This section shall not apply to timber, water, soil, sod, dirt, turf, or mosses.

SECTION 10. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with paragraph (c) of subsection (1) of Section 2.

SECTION 11. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Except as provided in Sections 9 and 10, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of five percent (5%) per year of its inventory value, shall be income, and the balance shall be principal.

SECTION 12. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which has not produced an average net income of at least one percent (1%) per year of its inventory value for more than a year, including as income the value of any beneficial use of the property by the income beneficiary, shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale shall be the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was underproductive.

(2) The sum allocated as delayed income shall be the difference between the net proceeds and the amount which, had it been invested as simple interest at five percent (5%) per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, shall be income, and the balance shall be principal.

(3) An income beneficiary or his estate shall be entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

(4) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages such as realty acquired by or in lieu of foreclosure, the income beneficiary shall be entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five (5) years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

(5) This section shall not apply to securities listed on a national securities exchange or traded over the counter if the securities are held in a broadly diversified portfolio designed to produce a reasonable return appropriate to the purposes of the trust.

SECTION 13. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The following charges shall be made against income:

(a) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs, trustee's compensation except commissons computed on principal;

(b) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting practices, but no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on the effective date of this Act for which the trustee is not then making an allowance for depreciation;

(c) Court costs, attorney's fees, and other fees incurred with respect to regular accountings, unless the court directs otherwise;

(d) All expenses reasonably incurred for current management of principal and application of income; and

(e) Any tax levied upon receipts defined as income under this Act or the trust instrument and payable by the trustee.

(2) If charges against income are of an unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(3) The following charges shall be made against principal:

(a) Trustee's compensation not chargeable to income under subsection (1) of this section, special compensation of trustee, expenses reasonably incurred in connection with principal, court costs and attorney's fees not chargeable to income under subsection (1) of this section and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;

(b) Charges not provided for in subsection (1), including the cost of investing and reinvesting principal; the payments on principal of any indebtedness, including a mortgage amortized by periodic payments of principal; expenses for preparation of property for rental or sale; and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;

(c) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments; but a trustee may establish an allowance for depreciation out of income to the extent permitted by paragraph (b) of subsection (1) of this section and by Section 8;

(d) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority; and

(e) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.

(4) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under Section 4.

SECTION 14. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Section 13 so far as applicable and excepting those dealing with costs of, or special taxes or assessments for, improvements to property, shall govern the apportionment of expenses between income beneficiary and remainderman where no trust has been created, subject to any legal agreement of the parties or any specified direction of the taxing or other statutes; but where either the income beneficiary or remainderman has incurred an expense for the benefit of his own estate and without the consent or agreement of the other, he shall pay the expense in full.

(2) Subject to the exceptions stated in subsection (1) of this section, the cost of, or special taxes or assessments for, an improvement representing an addition of value to property forming part of the principal shall be paid by the income beneficiary, where the improvement cannot reasonably be expected to outlast the income beneficiary's interest. In all other cases, a portion thereof only shall be paid by the income beneficiary while the remainder shall be paid by the remainderman. The portion shall be ascertained by taking that percentage of the total which is found by dividing the present value of the income beneficiary's interest by the present value of an estate of the same form as that of the income beneficiary except that it is limited for a period corresponding to the reasonably expected duration of the improvement. The computation of present values shall be made on the expectancy basis set forth in the American Experience Tables of Mortality and no other evidence of duration or expectancy shall be considered.

SECTION 15. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Except as specifically otherwise provided in the trust instrument, or in this Act, this Act shall govern the ascertainment of income and principal and the apportionment of receipts and expenses between income beneficiaries and remaindermen in all cases where principal has been established with or without the

interposition of a trust, including, but not limited to, any receipt or expense received or incurred by a trust, a legal life estate, an estate for a term of y ears, or an estate of a decedent.

SECTION 16. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

This Act shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 17. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall take effect on January 1, 1993.

(2) Except as specifically otherwise provided in the trust instrument or in this Act, this Act shall apply to any receipt or expense received or incurred after the effective date of this Act by any trust, legal life estate, or estate for a term of years whether established before or after the effective date of this Act and whether the asset involved was acquired by the trustee before or after the effective date of this Act and to any receipt or expense received or incurred by an estate of a decedent dying on or after the effective date of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Kentucky Revised Uniform Principal and Income Act.

Section 19. The following KRS sections are repealed:

386.190 Definitions for KRS 386.190 to 386.340.

386.200 Application of KRS 386.190 to 386.340 — Powers of settlor.

386.210 Receipts of money or property, when deemed income and when deemed principal — Disposition of income and principal.

386.220 Apportionment of income.

386.230 Corporate dividends and share rights.

386.240 Bonds or other obligations for the payment of money.

386.250 Principal used in business.

386.260 Principal comprising animals.

386.270 Disposition of natural resources.

386.280 Principal subject to depletion.

386.290 Unproductive principal.

386.300 Expenses incurred in connection with trust estate.

386.310 Expenses of non-trust estates.

386.320 Uniformity of interpretation.

386.330 Citation of KRS 386.190 to 386.340.

386.340 Time of application of KRS 386.190 to 386.340.

HB 277, AN ACT relating to settlements of estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, shall also receive notice from the fiduciary by mail at least twenty (20) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made; shall indicate assets on hand and anticipated to be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement; and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom and which assets may be liquidated for distribution of cash or for payment of debts, costs of administration, or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part, and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. The inclusion of evidence and vouchers to accompany the proposal shall not be necessary unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

Section 2. KRS 395.620 is amended to read as follows:

(1) The District Judge shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the Circuit Clerk. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

(2) A hearing on a settlement filed in conformity with an approved proposed settlement made under Section 1 of this Act shall not be necessary.

HB 278, AN ACT relating to descent of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.035 is amended to read as follows:

(1) ***If*** [~~Whenever~~] real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in ***the*** [~~such~~] will, proceedings may be had in the District Court to determine the persons entitled to ***the*** [~~such~~] property.

(2) (a) If an estate is in process of administration the executor, administrator, or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or, ***if*** [~~in the event~~] the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;

(b) The motion shall set forth all of the facts known to ***the*** movant relating to the matter, including the names, ages, and addresses of all persons who are or may be entitled to share in ***the*** [~~such~~] property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time, [~~(~~]which shall not be less than twenty (20) days from the date of service,[~~)~~] when the motion will come on for hearing.

(3) Upon the hearing on the motion, any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages, and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties to the proceeding.***

(5) In a case where some or all of the property is real ***property*** [~~estate~~] located in this state, a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties to the proceedings.***

(6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(7) Any aggrieved party may, no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

HB 279, AN ACT relating to limitation on actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 396.205 is amended to read as follows:

No cause of action on any claim not otherwise barred by the provisions of KRS 396.011 and subsection (1) of KRS 396.055, or any other applicable statute of limitations, shall be brought against the personal representative or against any distributee after the expiration of two (2) years from the date of the order of discharge of the personal representative ***notwithstanding any other statute to the contrary.*** The foregoing limitation shall not preclude an action by any claimant against the personal representative for fraud, misrepresentation or inadequate disclosure related to the settlement of the decedent's estate.

HB 320, AN ACT relating to the Kentucky Judicial Form Retirement System and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.540 is amended to read as follows:

Except as provided in KRS 21.550 and 21.560, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable regulations, pass upon questions of eligibility and disability, make [~~contracts or~~] employments for services, and ***to contract for*** [~~purchase~~] fiduciary liability insurance***, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045.*** The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

Section 2. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the judicial retirement plan up to ten (10) years of service credit which he has earned in the Kentucky Employees' Retirement System. If the member elects to transfer his Kentucky Employees' Retirement System service credit, that system shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall

be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred by the Kentucky Employees' Retirement System and the cost of the credit to the judicial retirement plan, as determined by the actuary for the judicial retirement plan. ***The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).***

Section 3. KRS 6.515 is amended to read as follows:

(1) Service credit in the legislators' retirement plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the legislators' retirement plan who has at least five (5) years of service credit in the legislators' retirement plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the legislators' retirement plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the legislators' retirement plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may, until July 1, 1991, transfer to the legislators' retirement plan up to ten (10) years of service credit which he has earned in the County

Employees' Retirement System. If the member elects to transfer his County Employees' Retirement System service credit, that system shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the County Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred by the County Employees' Retirement System and the cost of the credit to the legislators' retirement plan, as determined by the actuary for the legislators' retirement plan. ***The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).***

Section 4. Whereas, procurement of professional services, as affected by this Act, will occur in fiscal year 1991-92, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

HB 321, AN ACT relating to Commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

Section 2. This act shall become effective January 1, 1994.

HB 334, AN ACT relating to guardianship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.280 is amended to read as follows:

When a minor or other person under disability, having no guardian, or conservator is entitled to receive a sum not exceeding ten thousand dollars ($10,000), exclusive of interest, in any action in which real estate has been sold or in the settlement of any estate or from any other source, the court in which the action is pending, or, if the sum does not derive from ***the*** [~~such~~] action, the District Court, may order the sum to be paid to the persons having custody of the minor or other person under disability. Before entering the order, the court shall be satisfied by affidavit or oral testimony that the minor or other person under disability is in the custody of the person to whom it is proposed to pay the money and the latter, upon withdrawal of the money, shall be under obligation as trustee to expend it, for the support, maintenance, or education of the minor or other person under disability. When the order is made, no bond shall be required of the person having custody of the minor or other person under disability and the purchaser of the real property may pay the share of the minor or other person under disability into court, and no lien shall remain on the property therefor and the money may be withdrawn by the person mentioned in the order without that person giving bond. ***A release executed by the person to whom the court has ordered the sum paid shall have the same effect as a release by a duly appointed guardian.***

HB 351, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from distribution and sale and shall be set apart by the District Court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the children surviving.

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the District Court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding one thousand dollars ($1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse, or, if there is no surviving spouse, the children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of seven thousand five hundred dollars ($7,500).

(4) The exemption provided in this section applies where the husband or wife dies testate [~~and the surviving spouse renounces the will as provided in KRS 392.080 and also under circumstances set out in KRS 395.455~~].

HB 409, AN ACT relating to the pre-paid funeral plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 367.936 to the contrary, an agreement, contract, or plan may provide that the trust shall be irrevocable during the lifetime of the beneficiary or grantor, if at the time of the signing of an agreement, contract, or plan or at any time thereafter, the beneficiary or grantor of the trust is, becomes, applies, or intends to apply to be an aged, blind, or disabled recipient of benefits pursuant to the federal Supplemental Security Income program under Title XVI of the Social Security Act or any other federal or state entitlement program. Funds irrevocably set aside for burial reserves, burial spaces, or other funds for funeral and burial expenses, including interest thereon shall be excluded as a

financial resource in determining the beneficiary's or grantor's eligibility under any federal or state entitlement program as long as exclusion is not prohibited by any federal law or regulation governing the entitlement program.

(2) An application for an irrevocable trust shall be on a form developed by the Attorney General, which shall require proof that the beneficiary or grantor has received, applied for, or intends to apply for entitlement benefits within thirty (30) days of the signing of the agreement, contract, or plan. The form showing proof shall thereafter be maintained in the files of the agent.

(3) If, for any reason, a beneficiary or grantor of the trust fails to apply for entitlement benefits within thirty (30) days of his written intention to do so, fails to receive, or otherwise becomes ineligible for entitlement benefits, then the trust shall be a revocable trust.

(4) An irrevocable trust established pursuant to this section shall not affect the selection of funeral goods or services or the selection of the funeral home. At any time the beneficiary or grantor of the trust may, by written request to the agent and trustee, change the agent, trustee, or both.

(5) All agreements, contracts, or plans entered into prior to the enactment of this statute may be made irrevocable pursuant to the provisions of this section upon written application to the agent.

The Committee on Natural Resources and Environmental Protection reported **HB 418** and **HJR 68**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 418, AN ACT relating to community river and stream protection and awareness and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly declares that the river resources of Kentucky play a critical economic, social, and cultural role in communities throughout the Commonwealth. It is in the public interest to promote state and local partnerships in the protection and development of river and stream resources to ensure the balanced and full use of these resources for drinking, transportation, recreation and tourism, agriculture, and sustainable economic development while maintaining and improving the natural and environmental qualities of these resources.

(2) The Department for Local Government and the Kentucky Heritage Council shall jointly administer a grant and technical assistance program for the purpose of promoting community and local government participation in restoring, maintaining, and enhancing local and regional river resources and their accompanying watersheds, streams, and riparian areas.

(3) The department and the council, in cooperation with an advisory committee appointed by the Governor and composed of one (1) representative each from the Natural Resources and Environmental Protection Cabinet, the Environmental Council, the Economic Development Cabinet, the Department of Agriculture, and the Tourism Cabinet, shall develop applications and general grant rating criteria that will encourage cooperative and innovative efforts to address river resource issues and needs. These efforts may include, but not be limited to:

(a) Stream cleanups;

(b) River and stream reconnaissance and management of diverse resource values;

(c) Activities to promote tourism, recreation, and other river-related opportunities that are compatible with river resource management;

(d) Development of stream and watershed protection strategies; and

(e) Creation of river trusts or community river resource protection committees to foster cooperation and action in maintaining and restoring stream values.

(4) Grants shall be available to community citizen groups and municipal and county governments. Cooperative initiatives between counties, such as the demonstration Elkhorn Creek Interlocal Planning Consortium, to foster stream planning and river resource multi-use management shall be encouraged.

(5) Grant applications shall be jointly reviewed by the Department for Local Government, the Kentucky Heritage Council, and the cooperating agencies. The Department for Local Government and the Kentucky Heritage Council shall approve grants for up to five thousand dollars ($5,000) per project. Preference shall be given to those projects providing matching funds.

(6) Each approved project shall submit to the administering agencies progress reports and a final report as determined by the agencies. The administering agencies shall submit to the Governor and the Legislative Research Commission an annual report on the program at the end of each fiscal year.

(7) Grants shall not be made for the purpose of water infrastructure development, maintenance, or operation.

Section 2. The sum of $50,000 for the fiscal year 1992-93 and the sum of $50,000 for the fiscal year 1993-94 is appropriated out of the General Fund to the Department for Local Government to carry out the purpose of Section 1 of this Act.

HJR 68, A JOINT RESOLUTION relating to river resource and watershed resource management.

WHEREAS, the General Assembly declares that it is the policy of the Commonwealth to ensure the continued viability of the rivers of Kentucky as valued economic, social, historic, recreational, and ecological assets for the benefit of present and future generations;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Commonwealth target its goals and limited resources in a more focused and coordinated manner to achieve cost effective and measurable results in restoring, maintaining, and enhancing the biological and physical nature and values of rivers and their accompanying watersheds, streams, and riparian areas.

Section 2. That the Secretary of the Natural Resources and Environmental Protection Cabinet shall be responsible for the development and implementation of a statewide river protection policy. The Secretary shall submit to the Governor and the General Assembly by December 1993 a statewide river protection policy and strategy that shall include, but not be limited to: measurable short and long-term river protection goals that foster the balanced protection and management of the state's 13 river basins; quantitative indicators to assess annually the progress of achieving goals; a coordinated river basin monitoring program and geographic database; and integrated statewide and regional programs and initiatives tailored to the values and uses of the riverine resource.

Section 3. That there is established a River Protection Policy Advisory Committee to assist the Secretary in the development of a statewide river protection and management strategy. The committee's membership shall include the following, or their designee: Secretary of the Transportation Cabinet; Secretary of the Cabinet for Economic Development; Commissioner of the Department of Agriculture; Director of the Kentucky Heritage Council; Secretary of the Tourism Cabinet; Chair of the state legislative Water Management Task Force; Chair of the Environmental Quality Commission; Commissioner of the Department for Local Government; Commissioner of the Department of Fish and Wildlife Resources; Chair of the Kentucky River Authority; Director of the Kentucky Geological Survey; and members to be appointed by the Secretary from the business and agriculture community, environmental and public interest groups, historic preservation groups, recreational organizations, federal and local governments, area development districts, and statewide and local planning organizations and agencies. The Secretary shall designate appropriate cabinet and division personnel to serve on or assist the committee. The Secretary may establish working subcommittees as deemed appropriate to facilitate the development of a statewide river policy. The Secretary shall seek and provide opportunities for public input and comments on the statewide river policy and strategy.

Section 4. That the Secretary, with the assistance of the advisory committee, shall: review the need for a small stream protection and management initiative that considers the cumulative impacts of development and modification activities, discharges, and dredging activities on streams, watershed and river quality, uses, and values; review current riparian policies and priorities and make recommendations to foster its protection and enhancement; expand the state's comprehensive river assessment and make recommendations for the protection and management of special river resources; strengthen programs to educate the public on river-related matters and promote public participation in river protection; assess local government and other state and federal agency roles and responsibilities to facilitate coordinated river resource management; and review any other matter affecting rivers.

Section 5. That there are established, within the Division of Water, demonstration projects for the Kentucky River and Salt River based on the whole river basin management approach. These demonstration projects, to be conducted over a three-year period, shall promote cooperative and coordinated federal, state, and local initiatives designed to identify and address local and regional river resource needs. The Kentucky River Basin demonstration project shall be conducted jointly by the Kentucky River Authority and the Division of Water. The Secretary shall submit six-month status reports to the Governor and the Legislative Research Commission and a final report on the benefits and feasibility of a statewide whole basin management approach by December 1995.

The Committee Substitute to **HJR 68** is as follows:

HJR 68, A JOINT RESOLUTION relating to river resource and watershed resource management.

WHEREAS, the General Assembly declares that it is the policy of the Commonwealth to ensure the continued viability of the rivers of Kentucky as valued economic, social, historic, recreational, and ecological assets for the benefit of present and future generations;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

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Section 2. That the Secretary of the Natural Resources and Environmental Protection Cabinet shall be responsible for the development and implementation of a statewide river protection policy. The Secretary shall submit to the Governor and the General Assembly by December 1993 a statewide river protection policy and strategy that shall include, but not be limited to: measurable short and long-term river protection goals that foster the balanced protection and management of the state's 13 river basins; quantitative indicators to assess annually the progress of achieving goals; a coordinated river basin monitoring program and geographic database; and integrated statewide and regional programs and initiatives tailored to the values and uses of the riverine resource.

Section 3. That there is established a River Protection Policy Advisory Committee to assist the Secretary in the development of a statewide river protection and management strategy. The committee's membership shall include the following, or their designee: Secretary of the Transportation Cabinet; Secretary of the Cabinet for Economic Development; Commissioner of the Department of Agriculture; Director of the Kentucky Heritage Council; Secretary of the Tourism Cabinet; Chair of the state legislative Water Management Task Force; Chair of the Environmental Quality Commission; Commissioner of the Department for Local Government; Commissioner of the Department of Fish and Wildlife Resources; Chair of the Kentucky River Authority; Director of the Kentucky Geological Survey; and members to be appointed by the Secretary from the business and agriculture community, environmental and public interest groups, historic preservation groups, recreational organizations, federal and local governments, area development districts, and statewide and local planning organizations and agencies. The Secretary shall designate appropriate cabinet and division personnel to serve on or assist the committee. The Secretary may establish working subcommittees as deemed appropriate to facilitate the development of a statewide river policy. The Secretary shall seek and provide opportunities for public input and comments on the statewide river policy and strategy.

Section 4. That the Secretary, with the assistance of the advisory committee, shall: review the need for a small stream protection and management initiative that considers the cumulative impacts of development and modification activities, discharges, and dredging activities on streams, watershed and river quality, uses, and values; review current riparian policies and priorities and make recommendations to foster its protection and enhancement; expand the state's comprehensive river assessment and make recommendations for the protection and management of special river resources; strengthen programs to educate the public on river-related matters and promote public participation in river protection; assess local government and other state and federal agency roles and responsibilities to facilitate coordinated river resource management; and review any other matter affecting rivers.

Section 5. That there are established, within the Division of Water, demonstration projects for the Kentucky, Salt, Big Sandy, Little Sandy, Tygarts, Licking, Upper Cumberland, Lower Cumberland, Green, Tradewater, Tennessee, Mississippi, and Ohio Rivers based on the whole river basin management approach. These demonstration projects, to be conducted over a three-year period, shall promote cooperative and coordinated federal, state, and local initiatives designed to identify and address local and regional river resource needs. The Kentucky River Basin demonstration project shall be conducted jointly by the Kentucky River

Authority and the Division of Water. The Secretary shall submit six-month status reports to the Governor and the Legislative Research Commission and a final report on the benefits and feasibility of a statewide whole basin management approach by December 1995.

The Committee on State Government reported **HB 14**, with Committee Amendment, Floor Amendment and Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 14** is as follows:

HB 14, AN ACT creating the Kentucky Peace Corps.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act unless the context indicates otherwise:

(1) "Allowance" means a twice-monthly payment granted volunteers during the term of their service. For the purposes of Sections 1 to 10 of this Act, an allowance shall not be considered a salary or a wage.

(2) "Board" means the Kentucky Peace Corps Governing Board created by Section 2 of this Act.

(3) "Community/user" means the nonprofit entity or entities for which a task is being performed by a volunteer or volunteers.

(4) "Corps" means Kentucky Peace Corps created by Section 4 of this Act.

(5) "Director" means the chief administrative officer of the corps appointed pursuant to the provisions of Section 4 of this Act.

(6) "Employee" means "employee" as defined by KRS 18A.005.

(7) "Volunteer" means Kentucky Peace Corps volunteers selected pursuant to the provisions of Section 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) There shall be created by Sections 1 to 10 of this Act the Kentucky Peace Corps Governing Board consisting of nine (9) members appointed by the Governor to staggered terms not to exceed four (4) years. Three (3) of these appointees shall be from 501c charitable corporations; one (1) shall represent local government; one (1) shall represent labor; one (1) shall represent the business community; and three (3) shall be employed by state agencies performing work related to the corps' purposes.

(2) At least one (1) member of the board appointed pursuant to the provisions of subsection (1) of this section shall be from each congressional district. No more than two (2) members shall be from the same congressional district.

(3) The board shall annually elect one (1) of its members chairman and one (1) of its members vice-chairman.

(4) The board shall meet at such time and place as shall be specified by the call of its chairman. At least one (1) meeting shall be held each month.

(5) All meetings of the board shall be open to the public as provided in KRS 61.810 to 61.850.

(6) At least seven (7) days in advance of each regular meeting of the board, notice shall be given in writing to each member by the director, which shall include, at the least, a tentative agenda. Five (5) members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.

(7) All records of the board shall be public records and open to public inspection as provided in KRS 61.872 to 61.884.

(8) Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS Chapters 44 and 45 and KRS 18A.200 for actual and necessary expenses incurred in the performance of their duties as prescribed by Sections 3 and 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Subject to the provisions of Sections 1 to 10 of this Act, and KRS Chapter 13A, it shall be the duty of the board to:

(1) Promulgate administrative regulations to establish a selection process for:

(a) Volunteers which shall include, but not be limited to, the testing of applicants for emotional stability by a mental health professional licensed in Kentucky for independent practice;

(b) Projects to be undertaken and completed by volunteers and a method of applying for these projects. The specific purpose or goal of the corps outlined in Section 5 of this Act shall be taken into consideration when applying this methodology.

(2) Initial administrative regulations promulgated under the provisions of this Act shall be filed with the Legislative Research Commission within ninety (90) days of the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Among its other duties, the board shall also be required to:

(1) Govern, or exercise authority, over the corps;

(2) Appoint a director to function as chief administrative officer of the corps;

(3) Make annual reports to the Governor and the Legislative Research Commission, and biennial reports to the Kentucky General Assembly;

(4) Advise the Governor and the director with respect to projects assigned to and undertaken by the corps;

(5) Consider and act on any and all matters referred to it by the director; and

(6) Investigate any irregularities reported by the public.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) A Kentucky Peace Corps, headed by a director appointed by the board created by Section 2 of this Act, is hereby created.

(2) The purpose of the corps is to:

(a) Create a volunteer, domestic service corps to promote a mechanism for selfless service for those who wish to improve the lives of other Kentuckians, raise the standard of living, enhance self actualization, and create a more conducive environment for future generations of Kentuckians.

(b) Assist the Commonwealth of Kentucky through targeted activities which promote the public good and achieve measurable or visible improvement in the environment, public service, individual productivity, education, health, and humanitarian endeavors.

(c) Identify and utilize the skills, knowledge and expertise of dedicated, well-trained volunteers who have met stringent selection criteria and have effectively demonstrated their commitment to the Kentucky Peace Corps.

(d) Promote a cross-fertilization of ideas, skills and concepts.

(3) The director, authorized by subsection (1) of this section, shall be a graduate of an accredited college or university and have at least five (5) years' experience in administration or in related fields. Additional education may be substituted for the required experience on a year-to-year basis. Additional experience may be substituted for the required education on a year-to-year basis, provided the experience level is deemed appropriate by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of the director to:

(a) Serve as chief administrative officer to the corps and secretary to the board, and to provide whatever help and technical assistance as deemed necessary by the board to the board.

(b) Hire, as provided in the budget enacted by the Kentucky General Assembly and other state and federal laws applicable to state personnel, whatever employees are deemed necessary by the board to carry out the provisions of Sections 1 to 10 of this Act, provided the number of employees does not exceed twelve (12).

(c) Prepare the budget request for approval by the board in the form and manner required by applicable state law. For the purposes of KRS Chapter 48, the board and the corps shall be considered a budget unit.

(d) Develop a handbook for volunteers for submission to and approval of the board prior to printing and distribution.

(e) Develop a handbook for community/users for submission to and approval of the board prior to printing and distribution.

(f) Prepare program status reports on a monthly basis.

(2) The director, on behalf of the corps, and with the permission of the board, may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the corps, or volunteer organizations.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 64.610 through 64.470, the salaries of the director and other employees of the corps, shall be determined by order of the board, provided these salaries do not exceed the limitations established by the Constitution of the Commonwealth of Kentucky, and limitations established by the Executive Budget enacted by the Kentucky General Assembly.

(2) All employees of the corps, including its director, shall be deemed unclassified employees of the Executive Department, covered by the provisions of KRS Chapter 18A relating to unclassified employees.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Volunteers shall be at least eighteen (18) years of age.

(2) Volunteers shall not serve within a seventy-five mile radius of their legal or voting residence.

(3) Volunteers shall not be considered employees of the board or the Commonwealth of Kentucky; however, they shall be granted:

(a) An allowance which, at a minimum, shall equal the federal minimum wage;

(b) Appeal rights pursuant to the provisions of Section 9 of this Act;

(c) Relocation benefits;

(d) Health benefits;

(e) Social security benefits;

(f) Free tuition for one full-time semester at a state-supported Kentucky college or university for every twelve (12) months' service completed in the corps; and

(g) Workers' compensation.

(4) Volunteers may receive reimbursement for travel, provided the reimbursement does not exceed the limitations established for Executive Department employees either by law, or administrative regulation.

(5) Notwithstanding other provisions of the Kentucky Revised Statutes, volunteers shall not be eligible to receive:

(a) Dental benefits;

(b) Disability insurance;

(c) Life insurance;

(d) Reimbursement for meals; or

(e) Unemployment insurance.

(6) All volunteers shall be expected to bring with them a minimum amount of tools to perform their tasks, but the community/user is expected to supply all other items, exclusive of clothing and other personal hygiene and grooming items.

(7) Volunteers shall agree in writing to:

(a) Cooperate with corps personnel with whom he is working in their common effort, and to abide by the policies and procedures set forth in the handbook and administrative regulations required by Section 3 of this Act, and other applicable state and federal laws.

(b) Hold the Kentucky Peace Corps harmless and to release it from any and all claims arising out of or in connection with any agreement he signs upon volunteering, excepting only that the corps shall remain liable for any harm directly attributable to its gross negligence.

(c) Perform the work assigned to him in an acceptable manner to the corps, or its representatives.

(d) Not engage in any regular work which carries monetary compensation and which falls outside the scope of the assigned corps duties. Any exceptions to this provision shall be authorized in writing by the director, and approved by the board.

(e) Serve the number of months, not to exceed two (2) years, deemed appropriate by the board and director to complete the task assigned. The board may extend the volunteer's contract an additional two (2) years provided: the volunteer is willing, and provided the volunteer has a special skill or expertise needed by the corps. Conversely, the board may reduce the number of months of the contract in the event of hardship.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

(1) Volunteers shall be disciplined or dismissed for cause only.

(2) In the event any volunteer is disciplined or dismissed for cause, he may appeal, within thirty (30) days, to Franklin Circuit Court for reinstatement.

(3) If reinstatement is ordered by the Franklin Circuit Court, the volunteer shall be returned to his job immediately and made whole, provided the order is not appealed to a higher court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154B IS CREATED TO READ AS FOLLOWS:

Volunteers who become contributing members of any state administered retirement system may purchase service credit for time served in the corps as provided in KRS 61.552 and 161.515.

Section 11. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer; [~~and~~]

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission***; and*** *(z) **Employees of the Kentucky Peace Corps.***

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 12. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees

Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the system actuary. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the

individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Teacher aides, secretaries, custodial personnel, and cafeteria employees of a school district may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on an annual or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment shall be by lump sum, except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the state-administered retirement systems who has completed service as a volunteer in the Kentucky Peace Corps, created by Section 5 of this Act, may purchase service credit for the time served in the corps by making delayed contribution payments.

Section 13. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after January 1, 1984. In the event this service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by Section 5 of this Act, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit.

Section 14. Implementation of Sections 1 to 10 of this Act shall be delayed until funding is available. When funding is available, the Governor shall, by executive order, certify that fact and proceed to make the appointments provided by Section 2 of this Act.

Section 15. (1) The board shall promulgate administrative regulations within ninety (90) days of the date of the executive order specified in Section 14 of this Act.

(2) The initial selection of volunteers shall be completed no later than six (6) months after the date of the executive order specified in Section 14 of this Act.

(3) Initial projects to which the volunteers shall be assigned shall be approved no later than six (6) months after the date of the executive order specified in Section 14 of this Act.

(4) Initial training of volunteers shall be completed no later than nine (9) months after the date of the executive order specified in Section 14 of this Act.

(5) Initial field assignments of volunteers shall be made no later than one (1) year after the date of the executive order specified in Section 14 of this Act.

The Committee on State Government reported **HB 133**, **HB 135**, **HB 220**, with Committee Amendment attached thereto, **HB 267**, **HB 344**, **HB 358**, **HB 364**, **HCR 76**, **SB 64** and **SCR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 133, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system, provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the Teachers' Retirement System and provided further, that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by

increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the system actuary. Payment shall be by lump sum except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months***, and members who were employed by the Legislative Research Commission for at least six (6) legislative bienniums, who were unable to acquire service credit due to the requirements of KRS 61.510(21), may purchase credit for their six (6) or more legislative bienniums served after January 1, 1960. The employee shall be credited with a month of current service for each month he occupied his position during the legislative biennium. The creditable compensation of the employee shall be calculated as having been received in equal amounts for each month of the biennium.*** Service credit under this ***subsection*** [~~section~~] shall be obtained by the payment of a delayed contribution ***payment*** which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Teacher aides, secretaries, custodial personnel, and cafeteria employees of a school district may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on an annual or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment shall be by lump sum, except that the employee may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

Section 2. The following KRS section is repealed:

61.554 Persons employed by Legislative Research Commission for 6 legislative bienniums may purchase credit in Kentucky Employees Retirement System.

HB 135, AN ACT relating to retirement programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.565 is amended to read as follows:

(1) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, and each employer participating in the County Employees Retirement System as provided for in KRS 78.520 to 78.852 and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.515 to 61.705 shall contribute annually to the respective retirement system***, and to the Kentucky Retirement Systems insurance fund created pursuant to KRS 61.701,*** an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of its employees, including the assumed creditable compensation of firefighters employed by a district created pursuant to KRS 75.010, to be known as the "normal contributions," and an additional amount to be known as the "past service contribution" which shall be computed by amortizing the total unfunded past service liability over a period of thirty (30) years using the level-percentage-of-payroll method. This method shall be used beginning with the 1990 actuarial valuation***, and with the 1992 actuarial valuation in the case of the insurance fund***. The initial thirty (30) year amortization period shall begin with the 1990 valuation***, and with the 1992 actuarial valuation in the case of the insurance fund***. Any significant increase in past service liability due to benefit improvements after the 1990 valuation***, or the 1992 valuation in the case of the insurance fund,*** shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.

(4) The board shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.

HB 220, AN ACT relating to purchasing retirement credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, ***or a contributing member of any retirement system administered by Kentucky Retirement Systems or by the Judicial Form Retirement System who had been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service,*** may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members ***or former members*** who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after January 1, 1984. In the event this service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members ***or former faculty members*** shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky

salary subsequent to the out-of-state service, regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member ***or former members*** having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System ***or former members who entered the Teachers' Retirement System*** for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

Section 2. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for this leave as provided in administrative regulations adopted by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked up pursuant to KRS 161.540(2).

(2) A member who has been out of the teaching profession, but not on an official leave of absence, for the purpose of obtaining a master's degree, Rank 1, or a doctor's degree may purchase up to one (1) year of service credit in the Teachers' Retirement System. Any member who qualifies to purchase this service shall pay to the retirement system an amount equal to the contribution rate in effect on the salary the last year the member was employed prior to enrollment in a master's, Rank 1, or doctor's degree program with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following enrollment in a master's, Rank 1, or doctor's degree program. This sum shall be deposited in the state accumulation fund. Credit purchased may not exceed the time the member is enrolled in a master's program, Rank 1 program, or doctoral program. Leave for this purpose shall be verified by a copy of the member's college transcript. This service credit must be purchased prior to July 1, ***1993*** [~~1991~~].

The Committee Amendment No. 1 to **HB 220** is as follows:

Amend printed copy of **HB 220** as follows:

On page 4, line 18, by bracketing and striking through the words "one (1) year"; and

On page 4, line 18, by inserting after "to" the words "***two (2) years***"; and

On page 5, line 3, by inserting after "enrolled" the words "***as a full time student***".

HB 267, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the commissioner for the Department for Adult and Technical Education or any person authorized by the commissioner to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing and signed by both the commissioner and his designee.

(2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of KRS 151B.035(4)(i).

(3) "Board" means the State Board for Adult and Technical Education created by KRS 151B.095.

(4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Department for Adult and Technical Education are subject to personnel administration under this chapter.

(5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group.

(6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A.

(7) ***"Clearinghouse" means the Training Information Clearinghouse which shall collect and provide comprehensive information on all occupational training, skills development, and related education programs funded or administered by any agency of the Commonwealth of Kentucky.***

(8) "Commissioner" means the commissioner for the Department for Adult and Technical Education.

(9)[~~(8)~~] "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter which must be preceded by four (4) years of successful employment.

(10)[~~(9)~~] "Demotion" means a change in an employee's position to another class having less discretion or responsibility.

(11)[~~(10)~~] "Department" means the Department for Adult and Technical Education as provided by KRS 151B.025.

(12)[~~(11)~~] "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Department for Adult and Technical Education requiring certification or its equivalent.

(13)[~~(12)~~] "Employee" means a person regularly employed in a position in the Department for Adult and Technical Education for which compensation is on a full-time or part-time basis.

(14)[~~(13)~~] "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Department for Adult and Technical Education shall be subject to personnel administration under this chapter.

(15)[~~(14)~~] "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an attorney employed by the Department for Adult and Technical Education.

(16)[~~(15)~~] "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position.

(17)[~~(16)~~] "Initial probation" means the one-year period following initial appointment of certified and equivalent employees under KRS 151B.070 which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status.

(18)[~~(17)~~] "Limited status" means employment that is renewable on an annual basis.

(19)[~~(18)~~] "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, or other disciplinary actions.

(20)[~~(19)~~] "Position" means employment in the department involving duties requiring the services of one (1) person.

(21)[~~(20)~~] "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility.

(22)[~~(21)~~] "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position.

(23)[~~(22)~~] "Reemployment" means the rehiring of an employee with continuing status who has been laid off.

(24)[~~(23)~~] "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Department for Adult and Technical Education by reason of layoff. Reemployment lists shall be used as provided by the provisions of KRS 151B.080.

(25)[~~(24)~~] "Region" means a grouping of counties as defined in respective state plans for vocational education and for vocational rehabilitation.

(26)[~~(25)~~] "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay.

(27)[~~(26)~~] "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year.

(28)[~~(27)~~] "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time.

(29)[~~(28)~~] "Transfer" means a movement of any certified or equivalent employee from one position to another having the same salary range and the same level of responsibility.

(30)[~~(29)~~] "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position, as well as any assistant or secretary attached to the position, who shall be exempt from the state classified service under KRS Chapter 18A and who is employed in the Department for Adult and Technical Education under this chapter.

Section 2. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be organized into a Department for Adult and Technical Education, a Department for the Blind, and other departments, divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.

(3) The Cabinet for Workforce Development shall consist of the following major organizational units:

(a) The Department for Adult and Technical Education, which is created by KRS 151B.025;

(b) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;

(c) The Department for the Blind, established by KRS 163.470;

(d) The State Board for Adult and Technical Education, which is created by KRS 151B.095;

(e) The Division for Client Assistance which is created by KRS 151B.225;

(f) The Governor's Council on Vocational Education, established by KRS 163.086;

(g) The Governor's Commission on Literacy, established by KRS 151B.135;

(h) The State Board for Proprietary Education, established by KRS 165A.340;

(i) The GED Foundation, established by KRS 151B.130;

(j) The Kentucky Occupational Information Coordinating Committee established by KRS 151B.215; [~~and~~]

(k) The Kentucky Job Training Coordinating Council, established by KRS 151B.220***; and***

(l) The Training Information Clearinghouse, established by Section 3 of this Act.

(4) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees, and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Training Information Clearinghouse is established within the Cabinet for Workforce Development.

(2) By January 1, 1993, the clearinghouse shall develop and maintain a current comprehensive list of all occupational training, skills development, and related education programs funded or administered by any agency of the Commonwealth of Kentucky.

(3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each program. The informational packets for each program shall include eligibility criteria, application information, fee schedules, and locations.

(4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid citizens, agencies, and businesses in the occupational training and education process.

(5) The clearinghouse shall have access to and be provided with current information on other agencies' programs that provide occupational training, skills development, and educational program services and shall serve as a referral service to those programs.

(6) By no later than October 1 of each year, the clearinghouse shall submit an annual report summarizing its work during the preceding fiscal year for the Governor and the General Assembly.

HB 344, AN ACT relating to intergovernmental cooperation between local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 65.210 TO 65.300 IS CREATED TO READ AS FOLLOWS:

(1) It is the purpose of this section to clarify the ability of cities, counties, urban-counties, and charter-counties to share their revenues by entering into interlocal agreements.

(2) Any city, county, urban-county, or charter-county may by ordinance enter into cooperative interlocal agreements for the sharing of revenues. The distribution of the revenues shall be as agreed upon by the local governments and contained in the interlocal agreement.

HB 358, AN ACT relating to purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.185 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the Commonwealth to exceed ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~]. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the Commonwealth. Nothing herein prevents the requirement of such bonds on construction contracts under ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~] when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, non-compliance requires that the bid be rejected, provided, however, that the secretary of the Finance and Administration Cabinet may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

Section 2. KRS 45A.190 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section.

Section 3. KRS 45A.430 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the local public agency to exceed ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~]. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the local public agency. Nothing herein prevents the requirement of such bonds on construction contracts under ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~] when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided, however, that the local public agency may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

Section 4. KRS 45A.435 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], the following bonds shall be furnished to the local public agency, and shall become binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the local public agency executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the local public agency, executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, for the protection of all persons supplying labor and material to the contractor or his subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the local public agency to require a performance bond or other security in addition to those bonds, or in circumstances other than specified

in subsection (1) of this section, including, but not limited to, bonds for the payment of taxes and unemployment insurance premiums.

Section 5. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

(3) Prequalification of suppliers shall not be required for suppliers of mowing services, sweeping services, and fertilizing services when the estimated contractual cost is less than one hundred thousand dollars ($100,000) and payment is not due until the work has been completed.

Section 6. KRS 176.080 is amended to read as follows:

(1) Each bidder shall accompany his bid with a bond or certified check payable to the State Treasurer for a reasonable sum, fixed by the department, guaranteeing that he will enter into a contract with the department for doing the work if the work is awarded to him.

(2) The contract shall be awarded to the lowest and best bidder. The department may require bonds from any contractor to secure the performance of any contract or may require security by any other means it deems advisable.

(3) The department may reject any bid when it finds it for the best interest of the state to do so. When all bids are rejected, the department shall advertise for new bids as in the first place.

(4) A security bond or check shall not be required when bidding on contracts for mowing services, sweeping services, or fertilizing services when the estimated contractural cost is less than one hundred thousand dollars ($100,000) and payment is not due until the work has been completed.

Section 7. KRS 176.090 is amended to read as follows:

(1) The contract shall state the time when the work shall be begun and completed, and the time and manner of payment. The department may require that a certain percent of the contract price, or a certain fixed sum shall not be paid to the contractor until a fixed time after completion and acceptance of the work ***except on those contracts exempt in KRS 176.080(4).***

(2) When the contract provides for partial payment based on the amount of work done, the representative of the department in charge of the work shall present to the department, as each payment becomes due, a certificate signed by him, showing as nearly as possible the amount of work done for which payment is to be made. If the state highway engineer finds that the amount certified is due, the Finance and Administration Cabinet shall draw a warrant for the amount certified, on the request of the Department of Highways.

(3) When the work has been fully completed, the representative of the department shall certify to the department a detailed and itemized statement of the cost of the work done, and if it is found to be correct, the department shall certify the amount to the Finance and Administration Cabinet, which shall draw a warrant for the amount due.

(4) All bonds and bids filed and all contracts approved by the department and a copy of all specifications and certifications shall be kept on file in the office of the department.

Section 8. KRS 176.130 is amended to read as follows:

(1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the department for the construction or maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the department to bid on such work.

(2) All applications for a certificate of eligibility shall be made to the department in writing, and the department shall act upon the application within thirty (30) days after the application is filed.

(3) A certificate of eligibility is not necessary where the department purchases equipment, material and supplies directly, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots.

(4) A certificate of eligibility shall not be required on those contracts exempt from security by KRS 176.080(4).

HB 364, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.691 is amended to read as follows:

(1) The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.

(2) Effective August 1, ***1992, each recipient of a retirement allowance under KRS 61.515 to 61.705, whose allowance is based on a factor of less than the one and ninety-seven hundredths percent (1.97%) specified in KRS 61.595(1), shall have the allowance increased by multiplying it by the number derived by dividing one and ninety-seven hundredths percent (1.97%) by the retirement factor, expressed as a percentage figure, under which the allowance was granted*** [~~1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.~~

~~(3) Effective August 1, 1990, and July 1, 1991, a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by two and nine-tenths percent (2.9%)~~].

(3)[~~(4)~~] A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

HCR 76, A CONCURRENT RESOLUTION encouraging the Auditor of Public Accounts to advise and assist the Legislative Program Review and Investigations Committee.

WHEREAS, the Auditor of Public Accounts and the Democratic Party of Kentucky have expressed support for the creation of an Economy and Efficiency Task Force to make recommendations for the implementation of a program to increase the economy and efficiency of state government operations, with the work of the Task Force to be coordinated by the Auditor of Public Accounts; and

WHEREAS, the Legislative program Review and Investigations Committee is charged by KRS 6.910 to "study on a continuing basis the operations and duties of state agencies, as they relate to efficiency," and has adopted a long-range study selection process to that end; and

WHEREAS, in 1991, the Program Review and Investigations Committee received recognition from the National Conference of State Legislatures for the high quality of its work; and

WHEREAS, KRS 6.935 directs the Auditor of Public Accounts to assist the Program Review and Investigations Committee in its efforts; and

WHEREAS, the General Assembly finds it most efficient and economical to maximize use of existing resources in analyzing the operation of state government;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Auditor of Public Accounts is encouraged to present to the Legislative Research Commission proposed studies relating to the economy and efficiency of state government operations for consideration by the Program Review and Investigations Committee.

Section 2. That the Auditor of Public Accounts is further encouraged to assist the Program Review and Investigations Committee in the conduct of its reviews and investigations.

SB 64, AN ACT relating to legislative ethics and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.810 is amended to read as follows:

(1) The Board of Ethics of the Kentucky General Assembly is established ***and shall be attached to the Legislative Research Commission for administrative support***. The members of this board shall be persons of outstanding reputation and unquestioned integrity who previously have shown an interest in the ethical conduct of public business.

(2) The board shall be composed of nine (9) members, not less than three (3) of whom shall be members of the minority party. The members shall be appointed in the following manner: two (2) members from the Senate and one (1) public member appointed by the Lieutenant Governor; two (2) members of the House of Representatives and one (1) public member appointed by the Speaker of the House; and three (3) public members appointed by the Legislative Research Commission. All members of the board shall serve for a term of four (4) years. Vacancies in the membership shall be filled in the same manner as the original appointments. A vacancy exists when a term expires, when a person appointed from the Senate or House of Representatives ceases to be a member of such body or when a letter of resignation is received by the board.

(3) Of the new members appointed as provided in this section, the Speaker of the House shall appoint a public member for an initial term of one (1) year, the Lieutenant Governor shall appoint a public member for an initial term of two (2) years, and the Legislative Research Commission shall appoint a public member for an initial term of three (3) years. Thereafter all appointments shall be for a full four (4) years.

(4) The board shall elect from its membership a chairman and such other officers as it deems necessary. For attending meetings members of the board shall be paid their necessary traveling expenses and in addition thereto shall receive compensation commensurate with the provisions of KRS 7.090(3).

Section 2. The following KRS section is repealed:

6.815 Board to employ staff and fix duties and compensation.

Section 3. Whereas the Board of Ethics of the Kentucky General Assembly is in immediate need of staff assistance, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SCR 5, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to re-establish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the present committee structure of the Kentucky General Assembly does not allow proper attention to be paid to these concerns; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested the Legislative Research Commission to establish a permanent committee on veterans' affairs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Kentucky Legislative Research Commission is requested to establish a Subcommittee on Veterans' Affairs to operate during the 1992-93 interim and present its recommendations to the Kentucky General Assembly.

Section 2. It is recommended that this subcommittee be appointed by the Legislative Research Commission.

The Committee on Transportation reported **HB 137**, **HB 361**, with Committee Amendment attached thereto, **HB 391**, **HJR 19**, with Committee Amendment attached thereto, **HJR 25** and **HCR 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 137, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.020 is amended to read as follows:

(1) The state primary road system shall consist of such public roads and city streets within the state as the Department of Highways determines shall be established, constructed, or maintained by the Department of Highways.

(2) The department shall, in its discretion, determine which public roads, or city streets, shall be established, constructed, or maintained by it, and shall determine the type of construction or maintenance for that road or city street.

(3) In the establishment of the state primary road system, the Department of Highways is authorized to select new routes, deviate from an existing route whenever it deems such deviation proper, eliminate from the state primary system roads or city streets which have been replaced as proper part of the system by the construction of a new facility or the selection of a new route. No permanent ingress or egress ramp of the state primary road system on fully controlled access facilities shall be closed, except for repairs, unless a public hearing is first held in the area to be affected by the closing. The Department of Highways shall, at least twenty (20) days before the hearing, advertise in a newspaper of general circulation in the area to be affected by the closing, the date, time, and place of the hearing.

(4) ***Prior to the advertisement for bids on any highway construction project, the Department of Highways shall meet with the fiscal court in the jurisdiction of the construction project for the purpose of advising the fiscal court of any state road or road segment which the department may seek to eliminate from the state primary road system upon completion of that highway construction project. The requirement of this subsection shall be in addition to the requirements of subsection (5) of this section.***

(5) The department shall notify the fiscal court of the county at least four (4) months before it eliminates a road, road segment, bridge, or street in that county from the state primary road system. Upon receiving notice, the fiscal court may reject title and notify the department that the road ***shall*** [~~will~~] not become part of the county road system. If the fiscal court declines, the department shall give notice to all private persons entitled to a necessary access over this road of their rights under this chapter;[~~,~~] and, by petition of any private party entitled to such access, the road shall be deemed a discontinued state road and shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved. In the absence of such petition, title shall be transferred to the owner or owners of the tract or tracts of land to which the road originally belonged.

(6)[~~(5)~~] As used in this section, the term "rural secondary roads" shall mean such system of roads in this state which are usually considered farm to market roads and that were classified as part of the rural secondary road system by the Department of Highways on January 1, 1986. By January 1, 1987, the Department of Rural and Municipal Aid shall meet with the fiscal courts in each of the counties to receive recommendations regarding the transfer of roads, included as part of the county road system on January 1, 1986, to the rural secondary system. Prior to such meeting with the Department of Rural and Municipal Aid, the fiscal court shall consult with the legislative bodies of municipalities within the county regarding their recommendations for the transfer of county roads located within the jurisdiction of the municipality. On July 1, 1987, the Transportation Cabinet shall by official order accept at least two thousand (2,000) miles of roads in the county road system into the rural secondary system. In accepting such roads into the rural secondary system, the Transportation Cabinet shall accept in each county at least seventy-five percent (75%) of the total number of miles in each county determined by multiplying the total number of county road miles accepted in the rural secondary system by the percentage of county road aid funds received in each county in fiscal year 1984-85 compared to the total amount of county road aid funds generated in fiscal year 1984-85. The determination of the total funds received by each county from the county road aid program in fiscal year 1984-85 and the total amount of county road aid funds generated in fiscal year 1984-85 shall be made by the department of rural and municipal aid. The roads so transferred shall be maintained with the proceeds of the provisions of KRS 177.320(1) and in no case shall the rural secondary system, as defined in this subsection, be less than eleven thousand eight hundred (11,800) miles.

(7)[~~(6)~~] The establishment, construction or maintenance of the state primary road system shall be under the direction and control of the Department of Highways. The commissioner of highways is authorized to adopt regulations necessary to the administration of this authority.

HB 361, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act:

(1) "Corridor" means any highway designed and planned for eventually being constructed as a four-lane major route, which may connect a rural area to its regional center, or to another corridor, and may include an existing highway facility or one that is currently not constructed to meet the four-lane criterion;

(2) The "Kentucky highway corridor fund" means the special account created within the Transportation Cabinet, from proceeds from the road fund, federal funding sources, general fund, private sources, or any other source, and designated for completion of the corridor system; and

(3) "Designated corridor system" means that system of strategic corridors set out in Section 2 of this Act, which may include the interstate highways, parkways, the Appalachian development system, and other routes of significance, but does no necessarily mean an exact route as it currently exists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky highway corridor fund is hereby established, which shall be used exclusively for the purposes of completing the following designated corridor system:

(a) East-to-west corridors:

1. Interstate 64;

2. Mountain Parkway from Interstate 64 to Campton;

3. Bluegrass Parkway;

4. Western Kentucky Parkway;

5. Cumberland Parkway;

6. Interstate 24; and

7. Audubon Parkway;

(b) North-to-south corridors:

1. Interstate 75;

2. ***Interstate 65;***

3. Green River Parkway;

4. Pennyrile Parkway;

5. Purchase Parkway; and

6. Interstate 71;

(c) Circumferential corridors:

1. Interstate 265;

2. Interstate 275;

3. Kentucky Route 922; and

(d) The following routes:

1. Kentucky Route 32, from Morehead to Flemingsburg;

2. A new route from Flemingsburg to Corinth;

3. United States Route 431, from Owensboro to the Tennessee state line;

4. AA Highway, from Interstate 275 to Quincy, from Quincy to Greenup, and from Vanceburg to Grayson;

5. Kentucky Route 80, from Bernstadt to Shopville;

6. Kentucky Route 952, from Williamsburg to Monticello;

7. Kentucky Route 90/Kentucky Route 61, from Burnside to Glasgow and from Burksville to the Tennessee state line;

8. United States Route 68, from Maysville to Lexington and from Lexington to Edmonton;

9. United States Route 231, from Bowling Green to Scottsville;

10. United States Route 60, from Wickliffe to Paducah, from Paducah to Henderson, from Henderson to Hawesville, and from Hawesville to Muldraugh;

11. United States Route 51, from Fulton to Wickcliffe;

12. United States Route 68/Kentucky Route 80, from Bowling Green to Cadiz, from Cadiz to Hardin, and from Hardin to Mayfield;

13. Kentucky Route 121, from Mayfield to Wickcliffe;

14. United States Route 119, from South Williamson to Pikeville, from Pineville to Whitesburg, and from Whitesburg to Jenkins;

15. United States Route 460, from Pikeville to the Virginia state line;

16. Mountain Parkway/Kentucky Route 114, from Campton to Prestonsburg;

17. Kentucky Route 15, from Campton to Jackson, from Jackson to Hazard, and from Hazard to Whitesburg;

18. Kentucky Route 7, from Grayson to Salyersville;

19. Kentucky Route 11, from Slade to Manchester; and

20. United States Route 421, from Ohio River to Interstate 75, from Richmond to Manchester, and from Hyden to the Virginia state line.

(2) Corridors may be added to or deleted from the designated corridor system upon recommendation of the Transportation Cabinet and approval of the recommendations by the General Assembly by amendment to this section during a regular session. A recommendation for change shall be submitted no later than the fifteenth day of a regular session. Failure of the General Assembly to take action on the recommendations shall not imply acceptance.

SECTION 3. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) (a) Beginning with the program submitted to the 1994 Regular Session of the General Assembly, the Transportation Cabinet shall present to the General Assembly a separate designated corridor system construction and preconstruction program detailed in the same manner and at the same time as the program submitted according to KRS 176.420(2). Projects set forth in the designated corridor system program shall be included as a separate section of the biennial construction and preconstruction program in KRS 176.420(2).

(b) Upon approval by the 1992 Regular Session of the General Assembly of the biennial construction program and four (4) year preconstruction program described in KRS 176.420(2) and (3), the cabinet shall prepare a separate section for the designated corridor system projects scheduled for work during the ensuing biennium. In addition, the funding scheduled for the ensuing biennium for projects in the designated corridor system, shall be placed in the Kentucky highway corridor fund, and reports shall be made to the General Assembly in the same manner as designated in KRS 176.430(4).

(c) The cabinet shall provide to the General Assembly during each regular session, an update involving information related to anticipated costs of completing the projects in the long-range designated corridor system.

(2) (a) The average percentage of road fund receipts designated for use on corridors in the current and previous biennial construction plans shall determine the percentage of road fund receipts that shall be appropriated to the Kentucky highway corridor fund in ensuing bienniums.

(b) The cabinet shall make every effort to secure funds for the highway corridor fund, in order to accelerate completion of the designated corridor system at the earliest possible date.

(c) The cabinet shall review the use of tolls, intergovernmental agreements, privitization, and any other means of alternative funding in order to accelerate full development of the designated corridor system.

(d) The cabinet shall make a separate designation for those items that include minor reconstruction and spot improvements necessary to maintain the functional integrity of the existing system either on an adequate corridor or corridors needing development.

Section 4. KRS 45.245 is amended to read as follows:

The provision of any other law notwithstanding:

(1) The Governor shall include in the executive branch budget recommendation and in the draft budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.100, for the biennium period beginning July 1, 1992, and for each biennium thereafter, the appropriations by each source of funds for a recommended highway construction program.

(2) The Governor shall submit a recommended highway construction program and a draft joint biennial highway construction resolution at the time prescribed for submission of the branch budget recommendations pursuant to KRS 48.100.

(3) The recommended highway construction program shall include:

(a) A complete list and summary description of each specific highway project recommended for funding during the biennium; and

(b) For each project:

1. The county and highway district;

2. The highway department item number which shall remain in effect throughout the life of the project;

3. The route number and total miles to be constructed;

4. A project description;

5. The fiscal year each project phase is to commence and the estimated cost of each project phase; and

6. The source of funding to be used.

(4) All information required by subsection (3) of this section shall be included in the recommended highway construction program. The joint biennial highway construction resolution shall contain only the information specified in subsection (3)(a) of this section and subparagraphs 1., 2., 5., and 6. of subsection (3)(b) of this section.

(5) During the biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state highway construction program for that biennium, shall not exceed the estimated cost of the project as shown in the joint biennial highway construction resolution for the executive branch enacted by the General Assembly, except as provided in KRS 45.247 and 45.248.

(6) Appropriations from the road fund to the recommended highway construction program shall be based on the revenue estimates pursuant to KRS 48.120. If additional highway construction projects are proposed which exceed revenue estimates pursuant to KRS 48.120 or which require the suspension or modification of an existing statute, the projects shall be separately stated and categorized with the recommmended funding source and account. ***Projects in the designated corridor system as set out in Section 2 of this Act shall be included in any additional highway construction projects at the percentage of funding as determined pursuant to subsection (2)(a) of Section 3 of this Act.***

The Committee Amendment No. 1 to **HB 361** is as follows:

Amend printed copy of **HB 361** as follows:

On page 2, line 12, after the semicolon "***;***" delete the word "***and***"; and

On page 2, between lines 13 and 14, insert the following:

"***8. United States Route 25 East;***

9. United States Route 460; and

10. Kentucky Route 150, from Stanford to Mt. Vernon;"; and

On page 2, line 19, after the semicolon "***;***" delete the word "***and***"; and

On page 2, between lines 20 and 21, insert the following:

"***7. United States Route 23; and***

8. United States Route 127;"; and

On page 2, line 24, after the semicolon "***;***" delete the word "***and***"; and

On page 2, between lines 24 and 25, insert the following:

"***4. Kentucky Route 4;***

5. United States Route 25 East; and

6. Interstate 264; and"; and

On page 3, line 7, after the word "***Route***" delete "***952***" and insert in lieu thereof "***92***"; and

On page 4, line 9, after the semicolon "***;***" delete the word "***and***"; and

On page 4, line 12, after the word "***line***" delete the period "." and insert in lieu thereof the following:

"***;***

21. Daniel Boone Parkway; and

22. United States Route 641."

HB 391, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) ***A countywide rescue squad may elect to equip its vehicles used for emergency purposes with green flashing, rotating, or oscillating lights meeting the specifications of subsection (1) of this section, or may use a combination of red and green in their flashing, rotating, or oscillating lights, if authorized to do so in writing by ordinance, resolution, or order of the fiscal court or urban county council of the county in which the rescue squad is organized.***

(3) When a countywide rescue squad is authorized to utilize green, or green and red flashing, rotating, or oscillating lights on its emergency vehicles as provided in subsection (2) of this section, then the members of the rescue squad authorized to utilize lights and sirens on their private vehicles pursuant to KRS 189.950, shall use lights of the same color as those used by the rescue squad.

(4) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(5)[~~(3)~~] By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating or oscillating lights.

(6)[~~(4)~~] All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(7)[~~(5)~~] All corrections cabinet vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Such corrections cabinet vehicles shall not be equipped with or use a siren, whistle or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(8)[~~(6)~~] Red flashing lights may be used by school buses.

(9)[~~(7)~~] No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

Section 2. KRS 189.930 is amended to read as follows:

(1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red, ***green,*** or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.

(4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.

Section 3. KRS 189.960 is amended to read as follows:

(1) The operator of a vehicle shall yield the right of way to any public safety vehicle or pedestrian actually engaged in work upon a highway or within any highway construction or maintenance area indicated by official traffic control devices.

(2) The operator of a vehicle shall yield the right of way to any public safety vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of KRS 189.920[~~(3)~~].

Section 4. KRS 189.570 is amended to read as follows:

(1) Pedestrians shall obey the instruction of any official traffic control devices specifically applicable to them, unless otherwise directed by a police officer or other officially designated persons.

(2) Pedestrians shall be subject to traffic and pedestrian control signals as provided in KRS 189.231 and 189.338.

(3) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(4) When traffic control signals are not in place or in operation, the operator of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(5) ***If*** [~~Whenever~~] any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection, to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(6) (a) Every pedestrian crossing a roadway at a point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections within the city limits of every city at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) Notwithstanding other provisions of this subsection or the provisions of any local ordinance, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian, [~~and~~] shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing a child or an obviously confused or incapacitated person upon a roadway.

(7) No vehicle shall at any time be driven through or within a safety zone.

(8) The operator of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

(9) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(10) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(11) Pedestrians shall move, ***if*** [~~whenever~~] practicable, upon the right half of crosswalks.

(12) ***If*** [~~Where~~] a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(13) ***If*** [~~Where~~] a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(14) ***If*** [~~Where~~] neither a sidewalk nor a shoulder is available, any pedestrian walking on or along a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(15) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(16) A pedestrian who is under the influence of alcohol or any kind of drug to a degree which renders ***him*** [~~himself~~] a hazard shall not walk or be upon a highway except on a sidewalk.

(17) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier, after a bridge operation signal indication has been given.

(18) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while ***the*** [~~such~~] gate or barrier is closed or is being opened or closed.

(19) No person shall stand in a roadway for the purpose of soliciting a ride.

(20) No person shall stand on a roadway for the purpose of soliciting employment or business from the occupant of any vehicle.

(21) No person shall stand on a highway for the purpose of soliciting contributions unless ***the*** [~~such~~] soliciting is designated by the presence of a traffic control device***,*** [~~or~~] warning signal***,*** [~~or~~] an emergency vehicle***,*** or public safety vehicle as defined in KRS 189.910 making use of the flashing, rotating or oscillating red, blue, ***green,*** or yellow lights on ***the*** [~~such~~] devices or vehicles.

(22) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(23) Upon the immediate approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating, or oscillating red***, green,*** or blue lights, visible under normal conditions from a distance of 500 feet to the front of ***the*** [~~such~~] vehicle, and the operator of which is giving audible signal by siren, exhaust whistle, or bell, every pedestrian shall yield the right of way to the emergency vehicle.

(24) This section shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

HJR 19, A JOINT RESOLUTION directing the Transportation Cabinet to study replacing the section of U.S. 421 between Harlan and Hyden.

WHEREAS, a major highway in the network of interstate connectors, U.S. 421 enters Kentucky in Trimble County across the river from Madison, Indiana, and exits the Commonwealth just south of Harlan, Kentucky; and

WHEREAS, the 1990 Highway Needs Task Force of the Legislative Research Commission identified three segments of U.S. 421 that are inadequate and in need of reconstruction; and

WHEREAS, the section of U.S. 421 between Harlan, Kentucky and Hyden, Kentucky, was one of the three segments identified as needing improvement; and

WHEREAS, a major factor that contributes to the isolation of this area of the Commonwealth is that Harlan and Leslie Counties are 25 miles away from a continuous four-lane highway; and

WHEREAS, the time the citizens of Harlan are required to travel to reach an interstate is unduly lengthened because the section of U.S.421 between Harlan and Hyden is extremely narrow, lacks shoulders, and has numerous dangerous curves in need of realignment; and

WHEREAS, the reconstruction of this route would provide the citizens of Southeast Kentucky with a safer and quicker access to the Daniel Boone Parkway and Interstate 75 at London, as well as Interstate 81 in Virginia;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet shall study the feasibility of replacing the section of U.S. 421 between Harlan, Kentucky and Hyden, Kentucky.

Section 2. That the scope of the study shall include cost estimates for replacing the section of U.S 421 between Harlan and Hyden, and a time schedule for the design, right-of-way acquisition, utility relocation, and construction phases necessary to complete the project.

Section 3. That the Transportation Cabinet shall report its findings to the Interim Joint Committee on Transportation by no later than October 31, 1993.

Section 4. That a copy of this Resolution be transmitted to Mr. Don Kelly, Secretary of the Transportation Cabinet.

The Committee Amendment No. 1 to **HJR 19** is as follows:

Amend printed copy of **HJR 19** as follows:

On page 2, line 11, after the date "***October 31***," by deleting "***1993***" and inserting in lieu thereof "***1994***".

HJR 25, A JOINT RESOLUTION extending the Task Force to Study Transportation Needs.

WHEREAS, during the 1990-91 interim the Legislative Research Commission created a special task force to study transportation needs throughout the Commonwealth; and

WHEREAS, the initial focus of this task force was to develop a long-range transportation plan that objectively ranks highway projects, funding, and completion of highway projects, as well as continuity in the executive branch administration of a long-range plan; and

WHEREAS, even though the task force issued a detailed report in December of 1991, the findings and recommendations centered on highway needs; and

WHEREAS, the need to study and develop an intermodal transportation system is critical in Kentucky as the nation works toward a system that "shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the nation's preeminent position in international commerce";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Task Force to Study Transportation Needs is extended through the 1992-93 interim for the purpose of studying how to develop and finance an intermodal transportation system. The task force shall report its findings and recommendations to the 1994 General Assembly.

Section 2. That the task force shall be composed of the following members:

(a) Four (4) members of the Kentucky House of Representatives;

(b) Three (3) members of the Kentucky Senate;

(c) Three (3) members appointed by the Speaker of the House of Representatives and the President Pro Tem of the Senate with knowledge in the following areas:

1. One (1) shall be knowledgeable in the areas of rail and water transportation;

2. One (1) shall be knowledgeable in the area of air transportation; and

3. One (1) shall be knowledgeable in the area of land transportation; and

(d) Six (6) members, one (1) from each congressional district, appointed by the Governor who represent the public and private sectors.

Section 3. That members of the task force shall be appointed within one (1) calendar month from the effective date of this Joint Resolution. The Legislative Research Commission shall appoint the co-chairmen of the task force. If a vacancy occurs, it shall be filled as originally appointed.

Section 4. That members of the task force shall receive necessary subsistence and travel expenses.

Section 5. That the task force may conduct meetings across the Commonwealth for the purpose of studying the following:

(a) Immediate and long-range transportation needs;

(b) Immediate and long-range financing needs and solutions;

(c) Methods to ensure the equitable allocation of transportation funds throughout the Commonwealth; and

(d) The economic impact of an intermodal transportation system on the Commonwealth.

Section 6. That the task force may, upon the approval of the Legislative Research Commission, employ consultants with expertise in the development and financing of an intermodal transportation system.

Section 7. That the Director of the Legislative Research Commission is authorized to supply the staff and resources necessary to accomplish the work of the Task Force to Study Transportation Needs.

Section 8. That any funds unexpended by the Highway Needs Task Force shall not lapse but shall be used to conduct the work of the Task Force to Study Transportation Needs.

HCR 64, A CONCURRENT RESOLUTION establishing a Rapid Rail Transportation Planning Commission.

WHEREAS, the urban areas of Louisville, Lexington, and Northern Kentucky are the largest population centers in the Commonwealth; and

WHEREAS, the population concentration within these urban areas has strained limited state facilities and resources, with this strain having been particularly evident in its impact on the existing transportation systems in the area; and

WHEREAS, the increased traffic congestion and accompanying air pollution from motor vehicle exhaust necessitate that alternative modes of transportation be developed within and between the state's largest population centers; and

WHEREAS, a promising solution to these transportation problems is the development of a rapid rail transportation system that initially links the urban areas of Louisville, Lexington, and Northern Kentucky, and will ultimately link the state's rural population centers to the larger urban areas; and

WHEREAS ON November 27, 1991, the United States Congress approved House Resolution 2950, the $151 billion, six-year highway and transit reauthorization bill; and

WHEREAS, under this new act, Kentucky's share of federal highway and transit funds will average $280 million annually; and

WHEREAS, House Resolution 2950 will increase funding for mass transit to $31.5 billion over six years and lower the state ratio of federal/state matching dollars required to 80/20; and

WHEREAS, an additional $9.2 billion is provided in House Resolution 2950 for transit new starts and rail modernization projects; and

WHEREAS, in light of Kentucky's need to develop alternative modes of transportation and the federal government's commitment to mass transit concerns, the state has the perfect opportunity to maximize federal dollars and address local needs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. A Rapid Rail Transportation Planning Commission is hereby created for the purpose of studying long-range planning for mass transit needs within the following counties: Jefferson, Shelby, Franklin, Woodford, Fayette, Scott, Grant, Boone, Kenton, and Campbell.

Section 2. The Legislative Research Commission shall appoint seventeen (17) members to the Rapid Rail Transportation Planning Commission as follows:

(a) Two (2) state senators;

(b) Five (5) state representatives;

(c) Two (2) county judge/executives from the counties listed in Section 1;

(d) Three (3) mayors from cities located in counties listed in Section 1;

(e) One (1) county judge/executive from a county that is not listed in Section 1 and that contains a city of the second class;

(f) One (1) mayor from a city of the second class that is located in a county that is not listed in Section 1; and

(g) Three (3) transportation experts.

Section 3. The Legislative Research Commission shall appoint two (2) co-chairmen of the Rapid Rail Transportation Planning Commission from among the state legislators serving on the planning commission. Members of the planning commission shall receive their reasonable and necessary expenses.

Section 4. The Rapid Rail Transportation Planning Commission shall study the feasibility of developing a rapid, fixed guideway ground transportation system. The study shall include the following elements:

(a) Existing and new transportation technologies;

(b) Economic and financial analyses;

(c) Ridership demand analyses;

(d) Examination of existing rail corridors;

(e) Priority of corridor development;

(f) Administrative structure, i.e., publicly owned and operated, privately owned and operated, or a public-private partnership;

(g) Environmental impact analysis including strategies for reducing hydrocarbons, carbon monoxide, nitrogen oxides, and noise levels, as well as strategies for energy savings from reduced gasoline consumption;

(h) Implementation schedules for the urban areas of Louisville, Lexington, and Northern Kentucky, and long-range connections to rural population centers; and

(i) Coordination with surrounding states also working to develop rapid rail systems.

Section 5. The Rapid Rail Transportation Planning Commission shall meet during the 1992-93 interim and report is findings and make recommendations to the Legislative Research Commission no later than October 31, 1993.

Section 6. The Director of the Legislative Research Commission is authorized to provide the staff for the Rapid Rail Transportation Planning Commission. Staff services to be utilized in completing this study are estimated to cost $38,500 per year for research staff and $20,250 per year for secretarial staff. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 7. The Rapid Rail Transportation Planning Commission may, upon approval of the Legislative Research Commission, employ consultants to assist with conducting long-range planning for mass transit needs.

Section 8. The Legislative Research Commission is authorized to supplement costs of the Planning Commission by accepting federal funds or support from any source.

Orders of the Day

Representative Stumbo moved that **SB 4** be recommitted to the Committee on Cities. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 7 to the Committee Substitute to **HB 16**, by Representative Gedling:

Amend printed copy of **HB 16/HCS** as follows:

On page 10, line 24, by deleting "***and the burden of proof in***"; and

On page 10, by deleting line 25 in its entirety; and

On page 10, line 26, by deleting "***agency***"; and

On page 12, by deleting lines 23 through 26 in their entirety.

Orders of the Day (Continued)

HB 62, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of the Committee Substitute to **HB 62**. Agreed.

Representative Gregory moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 62**. Agreed.

Representative Gregory moved that **HB 62**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 13, 1992 roll call on **HB 62** - Appendix.)

HB 62, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 62**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to introduce guests and to act upon a Legislative Citation. Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 21. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends LILLIAN B. NUNNELLY for your outstanding leadership and dedication as the Thornhill Learning Center Coordinator. As the pioneer organizer and developer for programs through CETA, GED, Literacy and Adult Education, we commend you for your ambitious efforts. Through your service, many Kentuckians have gained a broader education, a greater appreciation of life, and a brighter future.

This prestigious body joins Representative Hank Hancock in saluting you for these most noteworthy accomplishments. We extend best wishes for success in your future endeavors to serve Frankfort and Franklin County. (Sponsored by Representative Hancock)

Motions, Petitions and Communications

Representative Butler moved the adoption of the following Legislative Citation No. 22. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors LASSITER MIDDLE SCHOOL LEADER'S DAY PARTICIPANTS. Your involvement and participation in school activities is most credible and has earned you a well deserved distinction. Your outstanding contributions to Lassiter Middle School are reflective of your desire to excel academically and personally. May the memories and merits of your fine achievements guide you through future endeavors.

This prestigious body joins Representative Denver Butler in congratulating you on receiving this much deserved recognition. (Sponsored by Representative Butler)

Floor Amendments (Continued)

Floor Amendment No. 5 to the Committee Substitute to **HB 106**, by Representative Ark:

Amend printed copy of **HB 106**/HCS as follows:

On page 4, line 18, after the word "***records***" delete "*:*"

On page 4, line 19, delete "***(a)***"

On page 4, line 20, after the word "***agency***" delete "***; or***" and insert in lieu thereof a period

On page 4, delete lines 21 through 25 in their entirety

Floor Amendment No. 1 to **HB 320**, by Representative Overstreet:

Amend printed copy of **HB 320** as follows:

On page 7, line 12, by adding thereafter:

"Section 4. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member without a spouse or eligible children may designate a beneficiary who shall receive, in the event of his death, the accumulated contributions of the member plus the accumulated interest on those contributions calculated and compounded at the rates assumed by the system actuary for investment earnings during the period the contributions and earnings thereon accumulated. The system may pay this survivor benefit by lump sum, or over a period of years if annual payments would be tax advantageous to the beneficiary.";

and on page 7, line 13, by deleting "Section 4." and by substituting therefor "Section 5.".

Floor Amendment No. 8 to the Committee Substitute to **HB 16**, by Representative Walker:

Amend printed copy of **HB 16**/HCS as follows:

On page 5, lines 7 and 8, by placing brackets around and striking through "Committees of the General Assembly other than standing committees"; and

On page 5, line 8, by deleting the underlined semicolon and by relettering the subsections accordingly.

Motions, Petitions and Communications (Continued)

HR 98, by Representatives Mason and Bentley: A RESOLUTION adjourning in memory of John Emerson Spangler who entered eternal life on October 30, 1991, at the age of nineteen.

Representative Mason moved the adoption of the following **HR 98**:

HR 98, A RESOLUTION adjourning in memory of John Emerson Spangler who entered eternal life on October 30, 1991, at the age of nineteen.

WHEREAS, life is made up of constant calls to duty, and John Emerson Spangler died in his call of duty as a member of the Neon Volunteer Fire and Rescue Department; and

WHEREAS, while this dedicated young man was fighting an Eastern Kentucky forest fire at the scene of a house, nature in its indifference shifted the rapidly towering blaze, very suddenly, in the direction of John Emerson Spangler, resulting in his early death; and

WHEREAS, a person's life is measured not by its length but by that person's virtues; and

WHEREAS, John Emerson Spangler's virtues included humane undertakings and heroic courageousness; and

WHEREAS, John Emerson Spangler is survived by his parents, John Dewey Spangler and Cynthia Brinson Spangler; one brother, Blake Spangler; paternal grandmother, Alta Spangler; maternal grandmother, Edna Meade; and a host of other relatives and friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representative express their sincere sense of bereavement upon the loss of John Emerson Spangler and extend their thoughts and prayers to his loved ones.

Section 2. That when the House of Representatives does adjourn this day it does so in memory of John Emerson Spangler.

Section 3. That the Clerk of the House is directed to send a copy of this Resolution to John and Cynthia Spangler, Cram Creek Road, Mayking, Kentucky 41837.

HR 98 was adopted by voice vote.

Representative Mason moved that a call of the roll be taken to show co-sponsors of **HR 98.**

On the roll call the vote was yeas 73—Adkins, Allen, Arnold, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Cyrus, Deskins, Donnermeyer, Farley, Freibert, Gee, Geveden, Gray, Hancock, Hatcher, Heleringer, Hourigan, Jensen, Keith, Kerr, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Toby, Todd, Turner, Wayne, Williams, Zimmerman. Nays 0.

Representative Lyne moved the adoption of the following **HR 97:**

HR 97, A RESOLUTION honoring the 7th Battalion of the 101st Aviation Regiment, 101st Airborne Division (Air Assault) and their commander Lieutenant Colonel Frank S. Wilmoth.

WHEREAS, the relationship between the 7th Battalion and the communities of Logan County is so close that the Logan County Fiscal Court passed a proclamation adopting the members of the 7th Battalion as their sons and daughters; and

WHEREAS, this relationship has grown through the years as the men and women of the 7th Battalion have contributed to the well-being of Logan County citizens and participated in community events; and

WHEREAS, the 7th Battalion has come to the aid of Logan County residents by airlifting coal, blood, and other essential supplies during harsh winter weather; has helped plan and been part of the Logan County Tobacco Festival and associated Air Show; has collected, repaired, and helped deliver toys for the Toys for Tots Christmas program; has airlifted people to the hospital, cut firewood for the elderly, and provided other benefits too numerous to mention;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby commend the men and women of the 7th Battalion of the 101st Aviation Regiment, 101st Airborne Division (Air Assault) for the extraordinary and beneficial relationship they have forged over the years with their neighbors and surrounding communities.

Section 2. That this venerable institution recognizes the leadership of Lieutenant Colonel Frank S. Wilmoth, commander of the 7th Battalion, in fostering such close ties with the residents of Logan County.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Lieutenant Colonel Frank S. Wilmoth and Major General John E. Miller, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky 42223-5000; and Joe Carico, 204 Lynnwood Drive, Russellville, Kentucky 42276.

HR 97 was adopted by voice vote.

Floor Amendments (Continued)

Floor Amendment No. 9 to the Committee Substitute to **HB 16**, by Representative Walker:

Amend printed copy of **HB 16/HCS** as follows:

On page 2, line 3, by inserting "***state,***" after "***Every***".

Motions, Petitions and Communications (Continued)

Representative Burch moved the adoption of the following **HR 95**:

HR 95, A RESOLUTION adjourning in honor of members not filing for reelection to the House of Representatives.

WHEREAS, after laboring long and hard for the citizens of our great Commonwealth, certain members of this august body have chosen not to seek reelection to the House of Representatives; and

WHEREAS, these dedicated and tireless public servants have been identified as Billie D. Ark, Walter Blevins, Lindy Casebier, Pat Freibert, William Chester "Bud" Gregory, Albert Jones, Louie Mack, Raymond Overstreet, A.G. Pritchett, Susan B. Stokes, William Strong, and Lawson Walker; and

WHEREAS, for many years these twelve stalwart souls have bestowed countless benefits on their districts and contributed in many ways to our beloved Kentucky; and

WHEREAS, our compatriots will be sorely missed by we who remain to fight the great fight for our children and posterity;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this venerable institution expresses its sorrow at the departure of its esteemed colleagues and wishes them well in their future endeavors.

Section 2. That when the House of Representatives adjourns this day it does so in honor and memory of those shared moments and many accomplishments we shall cherish in the many years to come.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representatives Ark, Blevins, Casebier, Freibert, Gregory, Jones, Mack, Overstreet, Pritchett, Stokes, Strong, and Walker.

HR 95 was adopted by voice vote.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HR 95**.

On the roll call the vote was yeas 70—Adkins, Allen, Altman, Arnold, Ballard, Barrows, Blandford, Bronger, Brown, Bruce, Bryant, Butler, Castleman, L. Clark, J. Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Gedling, Gee, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Keith, Kerr, LeMaster, Lewis, Little, Long, Lyne Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Northup, Pritchett, Rapier, Richards, Richardson, Ridley, Riggs, Sanders, Scorsone, R. Smith, T. Smith, Stumbo, Toby, Todd, Turner, Wayne, Williams, Worthington, Zimmerman. Nays 5—Bentley, Casebier, Lile, Nunn, Sheehan.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 511, by Representative Brown: AN ACT relating to recycling of waste.

HB 512, by Representative Donnermeyer: AN ACT relating to the Archives and Records Commission.

HB 513, by Representative Jensen: AN ACT proposing to create Section 59A and to amend Section 256 of the Constitution of Kentucky relating to citizen initiative proposals.

HB 514, by Representatives Overstreet and Deskins: AN ACT relating to crimes and punishments.

HB 515, by Representatives Little, Collins, Bentley, Cyrus, Maggard and Deskins : AN ACT relating to commercial driver's licenses and declaring an emergency.

HB 516, by Representative Richards: AN ACT relating to nonpartisan candidates for municipal office.

HB 517, by Representative Clarke: AN ACT relating to motor fuels.

HB 518, by Representatives Little and Maggard: AN ACT relating to apportioned vehicles.

HB 519, by Representative Hourigan: AN ACT relating to school employees.

HB 520, by Representative Northup: AN ACT relating to income taxes.

HB 521, by Representative Clarke: AN ACT relating to property tax.

HB 522, by Representative Clarke: AN ACT relating to teacher compensation.

HB 523, by Representative Clarke: AN ACT relating to property tax.

HB 524, by Representative Clarke: AN ACT relating to state depositories.

HB 525, by Representative Clarke: AN ACT relating to sales and use tax compensation.

HB 526, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 527, by Representatives Gedling and P. Clark: AN ACT relating to county employees.

HB 528, by Representative Donnermeyer: AN ACT relating to the practice of social work.

HB 529, by Representatives Freibert, Stokes, Scorsone, Lear, Walker, Lile, Casebier, Riner and Reinhardt: AN ACT relating to statutory definitions.

HB 530, by Representatives Bentley, Mason, Collins, Noe, Cyrus, Maggard, Napier and Adkins: AN ACT relating to education.

HB 531, by Representatives Riner and Scorsone: AN ACT relating to energy.

HB 532, by Representative Barrows: AN ACT relating to rabies control.

HB 533, by Representative Lear: AN ACT relating to corrections.

HR 99, by Representative Palumbo: A RESOLUTION recognizing the Garden Springs Scholastic Chess Association, Inc., and honoring the game of chess.

Report of Committees (Continued)

The Committee on Committees reported **HB 149** for concurrence with Senate Committee Substitute and Senate Floor Amenmdent No. 1 be placed in the Orders of the Day for February 14, 1992.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 494**

Labor and Industry: **HB 406, HB 457, HB 485, HB 459**

Natural Resources and Environmental Protection: **HB 472, HB 465**

Health and Welfare: **HB 380**

Tourism Development and Energy: **HB 262, HB 145**

Floor Amendments (Continued)

Floor Amendment No. 6 to the Committee Substitute to **HB 106**, by Representative Geveden:

Amend printed copy of **HB 106/HCS** as follows:

On page 12, line 8, following the word "within" by inserting "***twenty (20)***" and by placing brackets around and striking through "ten (10)".

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 192**, with Committee Substitute attached thereto, **HB 214**, with Committee Amendment attached thereto, and **HB 372**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 192, AN ACT relating to maternal health.

WHEREAS, The General Assembly finds that a woman's ability to bear healthy children is threatened by the consequences of alcoholism and drug abuse; as many as ten percent (10%) of all births in the Commonwealth may be affected by alcohol or drug abuse; drug and alcohol use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and other health problems in newborn infants; fetal alcohol syndrome is the leading identifiable cause of mental retardation in the nation and the only one that is totally preventable; drug and alcohol impaired individuals pose extraordinary societal costs in terms of the medical, educational, and support services needed throughout the individual's lifetime; education and treatment are essential strategies in preventing prenatal exposure to alcohol and other drugs; pregnant substance abusing women face more barriers to substance abuse treatment than other persons seeking treatment; adequate prenatal care is an essential element in delivering a healthy, well-developed newborn; punitive actions taken against pregnant alcohol or substance abusers would create additional problems, including discouraging these individuals from seeking the essential prenatal care and substance abuse treatment necessary to deliver a healthy newborn; and

WHEREAS, the General Assembly finds it is necessary to treat the problem of alcohol and drug use during pregnancy solely as a public health problem by seeking expanded access to prenatal care and to alcohol and substance abuse education and treatment programs;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with language supplied by the Cabinet for Human Resources, which shall warn that drinking alcoholic beverages during pregnancy can cause birth defects.

(2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the Cabinet for Human Resources a Substance Abuse and Pregnancy Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to substance dependency and abuse during pregnancy.

(2) The work group shall be appointed by the Secretary for Human Resources and be composed of, but not restricted to, a representative of the Cabinet for Human Resources, Department for Health Services, Division of Maternal and Child Health Services; Department for Social Services; Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Regional Community Mental Health and Mental Retardation System; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Psychiatry; local or district health department; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association. The Director of the Division of Substance Abuse shall serve as chairperson.

(3) The work group shall meet at least quarterly and shall periodically assess the extent of alcohol and other substance dependency and abuse among Kentucky women who are pregnant; identify, develop, and coordinate resources available and needed within the Commonwealth for any person who is pregnant and at risk of alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol or drugs during pregnancy.

(4) The work group shall make an annual report, no later than January 1 of each year, of its activities and any recommendations to the Secretary of the Cabinet for Human Resources and the Legislative Research Commission.

(5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse and Pregnancy Work Group shall expire on July 15, 1998. As of that date, the Substance Abuse and Pregnancy Work Group shall cease to exist.

Section 3. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood[~~,~~] for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen ***at that time*** [~~then~~], the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Human Resources or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Human Resources.

(2) The Cabinet for Human Resources shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a non-medical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Human Resources, if the attending person has reason to believe based on a medical assessment of the mother or the infant, that the mother used any such substance for a non-medical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Human Resources is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources may conduct periodic anonymous surveys to determine the prevalence within the Commonwealth of drug and alcohol use during pregnancy. These periodic surveys may include, but are not limited to, toxicology tests to determine the presence of alcohol, controlled substances, or other drugs which have not been prescribed due to medical necessity.

(2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B which provide for obstetrical services, including delivery of newborn infants, shall, as a condition of licensure, participate in any periodic surveys conducted by the Cabinet for Human Resources for the purposes of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(3) Any surveys conducted pursuant to this section shall be conducted according to guidelines established by the Cabinet for Human Resources.

(4) The results of any individual toxicology tests performed pursuant to this section shall remain confidential and shall only be released to the Cabinet for Human Resources. Any results shall be collected and compiled in aggregate form without the name of the hospital, patient, or other means of identifying the individual subject of the test.

(5) No test result obtained pursuant to this section shall be admissible in any court or other hearing as evidence in any proceeding, criminal or civil, against the individual subject of the test.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall establish a program to educate health care workers about the effects of substance abuse during pregnancy.

(2) The Cabinet for Human Resources shall approve appropriate continuing educational courses about the prevention, screening for, and treatment of substance abuse during pregnancy to be completed by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 319, 320, 327, 333, and 335 and emergency medical technicians licensed pursuant to KRS Chapter 211. Each licensee or certificate holder shall take one (1) continuing education hour every three (3) years and submit confirmation of the continuing education course completion on a form provided by the Cabinet.

SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant substance abuser and other females who have substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The Cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 205.560 notwithstanding, the Cabinet for Human Resources shall, within the limitations of any federal funds made available under Title XIX of the federal Social Security Act and any appropriation therefor, include substance abuse treatment for pregnant and postpartum alcohol or drug abusing women in its scope of medical care.

SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

There is hereby created by state government a Center for Perinatal Substance Exposed Pregnancies for the purpose of working with appropriate professionals and state and local agencies to develop data bases for continued study; provide support services to pilot projects funded under Section 6 of this Act; coordinate and provide training to appropriate professionals; develop protocols for use by state agencies in dealing with substance abuse during pregnancy; work with local substance abuse prevention and treatment councils; and develop a clearinghouse of information for communities and professionals.

Section 9. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in Schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in Schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide, or phencyclidine, or in any controlled substance classified in Schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in Schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in Schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense, shall be confined in the penitentiary for not less than one (1) year nor more then five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(d) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell hashish shall be guilty of a Class D felony.

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates, or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates, or harvests five (5) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated, or harvested for the purpose of sale.

(c) No owner, occupant, or person having control or management of land on which marijuana has been planted, cultivated, or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating, or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in Schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in Schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide, or phencyclidine, or of any controlled substance classified in Schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall, for a first offense, be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of treatment and rehabilitation not to exceed one (1) year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of [~~such~~] discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which ***the*** [~~such~~] person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If ***the*** [~~such~~] material is not available, the court shall notify the secretary of the Cabinet for Human Resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court, which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take ***the*** [~~such~~] reports into consideration in determining sentence. The secretary may decline to cause ***the*** [~~such~~] examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no [~~such~~] service may be purchased at regular cabinet rates; in ***that*** [~~such~~] event, the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who knowingly and unlawfully possesses lysergic acid diethylamide or phencyclidine for his own use shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in Schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(12) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in Schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years' imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(13) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(14) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(15) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

(16) Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) yards of any school building used primarily for classroom instruction shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

(17) Any person who commits a criminal conspiracy, as defined in KRS 506.040, to traffic in a controlled substance shall be subject to the same penalties for trafficking in that controlled substance as specified in this section.

(18) Any person who violates KRS 218A.140, with respect to a controlled substance included in KRS 218A.090(5), shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(19) Any person who traffics in a controlled substance classified in Schedules I, II, III, IV or V to any person who is pregnant shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than five (5) years nor more than ten (10) years, or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both. Each violation shall constitute a separate offense.

The Committee Substitute to **HB 192** is as follows:

HB 192, AN ACT relating to maternal health.

WHEREAS, The General Assembly finds that a woman's ability to bear healthy children is threatened by the consequences of alcoholism and drug abuse; as many as ten percent (10%) of all births in the Commonwealth may be affected by alcohol or drug abuse; drug and alcohol use during pregnancy can result in low birthweight, physical deformities, mental retardation, learning disabilities, and other health problems in newborn infants; fetal alcohol syndrome is the leading identifiable cause of mental retardation in the nation and the only one that is totally preventable; drug and alcohol impaired individuals pose extraordinary societal costs in terms of the medical, educational, and support services needed throughout the individual's lifetime; education and treatment are essential strategies in preventing prenatal exposure to alcohol and other drugs; pregnant substance abusing women face more barriers to substance abuse treatment than other persons seeking treatment; adequate prenatal care is an essential element in delivering a healthy, well-developed newborn; punitive actions taken against pregnant alcohol or substance abusers would create additional problems, including discouraging these individuals from seeking the essential prenatal care and substance abuse treatment necessary to deliver a healthy newborn; and

WHEREAS, the General Assembly finds it is necessary to treat the problem of alcohol and drug use during pregnancy solely as a public health problem by seeking expanded access to prenatal care and to alcohol and substance abuse education and treatment programs;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender neutral language supplied by the Cabinet for Human Resources, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the Cabinet for Human Resources a Substance Abuse and Pregnancy Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to substance dependency and abuse during pregnancy.

(2) The work group shall be appointed by the Secretary for Human Resources and be composed of, but not restricted to, a representative of the Cabinet for Human Resources, Department for Health Services, Division of Maternal and Child Health Services; Department for Social Services; Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Regional Community Mental Health and Mental Retardation System; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Obstetrics and Gynecology; local or district health department; Kentucky Psychological Association; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association. The Director of the Division of Substance Abuse shall serve as chairperson.

(3) The work group shall meet at least quarterly and shall periodically assess the extent of alcohol and other substance dependency and abuse among Kentucky women who are pregnant; identify, develop, and coordinate resources available and needed within the Commonwealth for any person who is pregnant and at risk of alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol or drugs during pregnancy.

(4) The work group shall make an annual report, no later than January 1 of each year, of its activities and any recommendations to the Secretary of the Cabinet for Human Resources and the Legislative Research Commission.

(5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse and Pregnancy Work Group shall expire on July 15, 1998. As of that date, the Substance Abuse and Pregnancy Work Group shall cease to exist.

Section 3. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood[~~,~~] for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen ***at that time*** [~~then~~], the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Human Resources or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Human Resources.

(2) The Cabinet for Human Resources shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol,

a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Human Resources, if the attending person has reason to believe based on a medical assessment of the mother or the infant, that the mother used any such substance for a non-medical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Human Resources is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources may conduct periodic anonymous surveys to determine the prevalence within the Commonwealth of drug and alcohol use during pregnancy. These periodic surveys may include, but are not limited to, toxicology tests to determine the presence of alcohol, controlled substances, or other drugs which have not been prescribed due to medical necessity.

(2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B which provide for obstetrical services, including delivery of newborn infants, shall, as a condition of licensure, participate in any periodic surveys conducted by the Cabinet for Human Resources for the purposes of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(3) Any surveys conducted pursuant to this section shall be conducted according to guidelines established by the Cabinet for Human Resources. The toxicology test may be performed without a physician's order and without patient or parental consent. For the purpose of this section any toxicology test performed shall be considered medically necessary.

(4) The results of any individual toxicology tests performed pursuant to this section shall remain confidential and shall only be released to the Cabinet for Human Resources. Any results shall be collected and compiled in aggregate form without the name of the hospital, patient, or other means of identifying the individual subject of the test.

(5) No test result obtained pursuant to this section shall be admissible in any court or other hearing as evidence in any proceeding, criminal or civil, against the individual subject of the test.

(6) No hospital shall incur any liability, except for negligence, for performing any test required or authorized under Sections 3 and 4 of this Act or for reporting the result of the test pursuant to any administrative regulation promulgated by the Cabinet for Human Resources under KRS Chapter 13A in accordance with this section.

(7) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant substance abuser and other females who have substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The Cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 205.560 notwithstanding, the Cabinet for Human Resources shall, within the limitations of any federal funds made available under Title XIX of the federal Social Security Act and any appropriation therefor, include substance abuse treatment for pregnant and postpartum alcohol or drug abusing women in its scope of medical care.

SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

There is hereby created by state government a Center for Perinatal Substance Exposed Pregnancies for the purpose of working with appropriate professionals and state and local agencies to develop data bases for continued study; provide support services to pilot projects funded under Section 6 of this Act; coordinate and provide training to appropriate professionals; develop protocols for use by state agencies in dealing with substance abuse during pregnancy; work with local substance abuse prevention and treatment councils; and develop a clearinghouse of information for communities and professionals.

Section 8. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in Schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in Schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide, or phencyclidine, or in any controlled substance classified in Schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in Schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in Schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense, shall be confined in the penitentiary for not less than one (1) year nor more then five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(d) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell hashish shall be guilty of a Class D felony.

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates, or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates, or harvests five (5) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated, or harvested for the purpose of sale.

(c) No owner, occupant, or person having control or management of land on which marijuana has been planted, cultivated, or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating, or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in Schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in Schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide, or phencyclidine, or of any controlled substance classified in Schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall, for a first offense, be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of treatment and rehabilitation not to exceed one (1) year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of [~~such~~] discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which ***the*** [~~such~~] person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If ***the*** [~~such~~] material is not available, the court shall notify the secretary of the Cabinet for Human Resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court, which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take ***the*** [~~such~~] reports into consideration in determining sentence. The secretary may decline to cause ***the*** [~~such~~] examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no [~~such~~] service may be purchased at regular cabinet rates; in ***that*** [~~such~~] event, the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the Cabinet for Human Resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for Human Resources, or his designee, prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the Cabinet for Human Resources, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the Cabinet for Human Resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Human Resources, unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who knowingly and unlawfully possesses lysergic acid diethylamide or phencyclidine for his own use shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in Schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(12) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in Schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years' imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(13) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(14) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(15) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

(16) Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) yards of any school building used primarily for classroom instruction shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.

(17) Any person who commits a criminal conspiracy, as defined in KRS 506.040, to traffic in a controlled substance shall be subject to the same penalties for trafficking in that controlled substance as specified in this section.

(18) Any person who violates KRS 218A.140, with respect to a controlled substance included in KRS 218A.090(5), shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(19) Any person who traffics in a controlled substance classified in Schedules I, II, III, IV, or V to any person who is pregnant shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than five (5) years nor more than ten (10) years, or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both. Each violation shall constitute a separate offense.

HB 214, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.060 is amended to read as follows:

(1) No minister or priest shall solemnize marriage until ***a license has been obtained*** [~~he has obtained a license~~] therefor from the county judge/executive of the county in which ***that individual*** [~~he~~] resides, or in which ***the individual*** [~~he~~] serves as a minister or priest in a place of worship, upon satisfying the county judge/executive that ***the individual*** [~~he~~] is a person of good moral character and in regular communion with ***a*** [~~his~~] religious society, and upon giving covenant to the Commonwealth, with good surety, not to violate the law of this state concerning marriage. Any such license may be annulled by any county judge/executive, after notice to the person holding the license.

(2) A county judge/executive shall issue a special license to a nonresident minister or priest to solemnize one (1) marriage in that county, if the county judge/executive is satisfied that the minister or priest is in regular communion with ***a*** [~~his~~] religious society.

(3) The reference to "minister or priest" in subsection (1) of this section means both male and female ministers and priests.

The Committee Amendment No. 1 to **HB 214** is as follows:

Amend printed copy of **HB 214** as follows:

On page 2, line 2, by adding the following:

"Section 2. KRS 402.100 is amended to read as follows:

Each county clerk shall use the form prescribed by the department for libraries and archives when issuing a marriage license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the department for libraries and archives. The form shall consist of:

(1) A marriage license which provides for the entering of:

(a) An authorization statement of the county clerk issuing the license for any person licensed or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;

(b) Vital information for each party, including the full name, date of birth, place of birth, race, ***social security number,*** condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, full names of parents; and

(c) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license.

(2) A marriage certificate which provides for the entering of:

(a) A statement by the person performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;

(b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(c) to solemnize marriages, the name of the city or county where the religious society is incorporated;

(c) A dated signature of the person performing the ceremony; and

(d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.

(3) A certificate to be delivered by the person performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:

(a) A statement by the person performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date the license was issued, the name of the county clerk under whose authority the license was issued, and the county in which the license was issued; and

(b) A dated signature of the person performing the ceremony."

HB 372, AN ACT relating to the establishment of a birth defects registry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for Human Resources;

(2) "Secretary" shall mean the secretary of the Cabinet for Human Resources;

(3) "Department" shall mean the Department for Health Services;

(4) "Designee" shall mean a local health department, mental health/mental retardation board, or other governmental or private agency designated by the Department for Health Services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that birth defects, stillbirths, and handicapping conditions represent problems of significant health importance about which too little is known; that conditions of this nature lead to severe mental anguish on the part of parents and frequently to high medical care costs; and that a system to obtain more information about these conditions could result in development and implementation of preventive measures to decrease their incidence and prevalence in the future. Therefore, it is the intent of the General Assembly to:

(1) Provide information on the incidence, prevalence, and trends of birth defects, stillbirths, and handicapping conditions;

(2) Provide information as to the possible causes of birth defects, stillbirths, and handicapping conditions; and

(3) Develop prevention strategies to reduce the incidence of birth defects, stillbirths, and handicapping conditions and to reduce secondary complications associated with handicapping conditions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Health Services shall establish and maintain a birth defects registry that will provide a system for the collection of information concerning birth defects, stillbirths, and handicapping conditions. The system may cover all or part of the Commonwealth.

(2) In establishing the system, the department may review vital statistics records.

(3) The department may require general acute care hospitals licensed under the provisions of KRS Chapter 216B to maintain a list of the following information:

(a) All women discharged with a diagnosis of stillbirth; and

(b) All patients up to the age of five (5) years diagnosed with a birth defect or handicapping condition as defined by the department upon the recommendation of the appointed advisory committee.

(4) The department may have access to the medical records of any patient meeting the criteria in subsection (3) of this section that are maintained by general acute care hospitals and free standing birthing centers licensed under the provisions of KRS Chapter 216B.

(5) The Department for Health Services may implement the provisions of this Act through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall appoint a committee to advise on the implementation of the birth defects registry. The advisory committee shall have representation from the disciplines of obstetrics and gynecology, pediatrics, genetics, epidemiology, biostatistics, hospital administration, state agency service providers, parents of

children with birth defects or handicapping conditions, and consumers. Other disciplines may be represented at the discretion of the secretary.

(2) The advisory committee shall recommend to the department a definition of birth defects and handicapping conditions to be reported to the registry.

(3) If the department determines it is necessary to collect information from sources other than vital statistics records, general acute care hospitals, and free standing birthing centers, the department shall consult with the advisory committee prior to requesting the information.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) All information collected and analyzed pursuant to Sections 3 and 4 of this Act shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.

(2) Access to information assembled by the birth defects registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.

(3) The department shall maintain a record of all persons given access to the information in the birth defects registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.

(4) Information assembled by the birth defects registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.

(5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under Sections 3 and 4 of this Act may be denied further access to confidential information maintained by the department.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Any person who intentionally violates any of the provisions of Section 5 of this Act shall be guilty of a Class A misdemeanor.

(2) The penalty provided for in Subsection (1) of this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the Department for Health Services.

The Committee Amendment No. 1 to **HB** 372 is as follows:

Amend printed copy of **HB** 372 as follows:

On page 3, line 11, after "***(4)***" by deleting "***The***" and inserting the following in lieu thereof: "***With the written consent of one (1) parent or guardian, the***";

The Committee Amendment No. 2 to **HB** 372 is as follows:

Amend printed copy of **HB** 372 as follows:

On page 3, line one, after the word "***records***" by inserting the following:

"***, and shall also consider expanding the current list of birth defects and handicapping conditions as reported on birth certificates***"

And beginning on page 3, line 5, by deleting the following:

"***(a) All women discharged with a diagnosis of stillbirth; and***

(b)"

And on page 3, line 7, after the word "*All*" by inserting the following ***in***

Motions, Petitions and Communications (Continued)

Representative Deskins moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 94**, **HB 205**, **HB 310**, **HB 331**, **HB 164**, **HB 176**, **HB 183**, **HB 196**, **HB 207**, **HB 209**, **HB 233**, **HB 342**, **HB 352**, **HR 83**, **HR 88**, **HR 89**, **HR 62**, **HR 91** and **HR 92**. Agreed.

Representative T. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Smith moved that his vote be changed from "nay" to "yea" on **HR 96**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that his vote be changed from "nay" to "yea" on **HB 269**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions:

HB 180, Representative T. Smith; **HB 203**, Representative T. Smith; **HB 327**, Representative Coleman; **HB 332**, Representatives Maggard, Sanders; **HB 409**, Representative Stumbo; **HB 418**, Representative Hourigan; **HB 453**, Representative Bruce; **HB 472**, Representative Little; **HJR 68**, Representative Hourigan; **HR 95**, Representative Bentley; **HR 96**, Representatives Barrows, Nelson.

Representative Stumbo announced tentative plans to convene at 2:00 p.m., Tuesday, February 18, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 14, 1992.

On the roll call the vote was yeas 80—Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hourigan, Jones, Keith, Kerr, Lear, Lewis, Little, Lyne, Mack, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stumbo, Toby, Todd, Turner, Walker, Williams, Yates, Zimmerman. Nays 4—Hatcher, LeMaster, Lile, Mullinix.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 14, 1992

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Johnson and Strong.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 13, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 47**. (Time: 9:04 a.m.)

Introduction of Bills and Resolutions

HB 534, by Representatives P. Clark and Gray: AN ACT relating to elections.

HB 535, by Representative McElroy: AN ACT relating to Cherokee Indians.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 532**

Appropriations and Revenue: **HB 507, HB 526, HB 525, HB 523, HB 517, HB 521, HB 520**

Banking and Insurance: **HB 510**

Cities: **HB 508**

Counties and Special Districts: **HB 527, HB 505, HB 506, HB 504**

Education: **HB 522, HCR 93, HB 502, HB 530, HB 519, SB 86**

Elections and Constitutional Amendments: **HB 516, HB 513**

Health and Welfare: **HJR 94, HB 528**

Judiciary: **HB 503, HB 501, HB 509, HB 500, HB 514**

Natural Resources and Environmental Protection: **HB 511, HB 529**

State Government: **HB 533, HB 524, HB 512**

Tourism Development and Energy: **HB 531**

Transportation: **HB 518, HB 515**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **HB 498**

Calendar

HB 377, HB 396, HB 401, HB 316, HB 419, HB 270, HB 277, HB 278, HB 279, HB 320, HB 321, HB 334, HB 351, HB 409, HB 418, HJR 68, HB 133, HB 135, HB 220, HB 267, HB 344, HB 358, HB 364, HCR 76, SB 64, SCR 5, HB 137, HB 361, HB 391, HJR 19, HJR 25, HCR 64, HB 192, HB 214 and **HB 372** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 399 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB 321**, by Representative Morris:

Amend printed copy of **HB 321** as follows:

On page 1, line 9, by deleting "***seventy***" and inserting in lieu thereof "***sixty-eight***"; and

On page 1, line 10, by deleting "***(70,000)***" and inserting in lieu thereof "***(68,000)***".

Floor Amendment No. 7 to the Committee Substitute to **HB 106**, by Representative Nunn:

Amend printed copy of **HB 106/HCS** as follows:

On page 6, line 17, following the word "jurisdiction" to add "***, except that no court shall authorize the inspection of any materials pertaining to a criminal investigation or criminal litigation beyond that which is provided by the Rules of Criminal Procedure governing pretrial discovery***"

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 14, HB 137, HB 214, HB 270, HB 277, HB 278, HB 279, HB 316, HB 320, HB 321, HB 334, HB 351, HB 372, HB 377, HB 391, HB 396, HB 401, HB 409, HB 419, SB 64, SCR 5** and **HB 169** have been posted for passage in the Orders of the Day for February 18, 1992.

The Committee on Rules reported that the following Consent Bill has been posted for passage in the Orders of the Day for February 18, 1992: **HB 399**.

Orders of the Day

HB 149, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 149** is as follows:

HB 149, AN ACT relating to higher education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

"Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

Section 2. KRS 164.020 is amended to read as follows:

The Council on Higher Education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the Governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state universities, the community colleges, and the University of Kentucky, as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Higher Education shall establish [~~such~~] advisory groups [~~as may be~~] necessary to satisfy federal legislative or regulatory guidelines.

(3) Determine tuition and approve the minimum qualifications for admission to the public institutions of higher education. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and [~~such~~] other factors [~~as~~] the council may in its sole discretion deem pertinent.

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The council, in cooperation with the university presidents, shall devise, establish, and periodically review and revise formulas for use in making recommendations to provide to the Governor and the legislature for use in making appropriations for the institutions of higher learning. The formulas shall provide for adequate and equitable allocation of funds among the several universities considering their respective needs and statutory, institutional, and geographic missions. In the development, revision, and refinement of [~~such~~] formulas, committees composed of members of the council staff and a representative of each of the state universities shall conduct hearings on each campus in a manner to give all principal segments of each institution the opportunity to participate in the development of the formulas. The studies shall include, but not be limited to:

(a) A review of formulas used by other states to calculate needs and appropriate funds for institutions of higher education;

(b) A complete review of selected comparable institutions with reference to both the state appropriations and tuition charges, and

(c) A review of institutional activities and programs that can be calculated for use in the development of the formulas.

There shall be included in the final report the institutional responses to the studies and their recommendations and the recommendations of the advisory conference of presidents. Nothing in this chapter shall prevent or prohibit the Governor, the Legislature, the Council on Higher Education, or the governing board of any institution of higher education from requesting or recommending deviations from any applicable formula or formulas prescribed by the Council on Higher Education and advancing reasons and arguments in support of them. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations shall be submitted to the Governor through the Finance and Administration Cabinet not later than November 15 of each odd-numbered year. The council shall submit a separate budgetary recommendation for the University of Kentucky community college system.

(5) Review and approve all capital construction projects the cost of which exceeds two hundred thousand dollars ($200,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of ***the*** [~~such~~] projects to the Finance and Administration Cabinet ***or the*** [~~and/or~~] State Property and Buildings Commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs in the state-supported higher education institutions; review proposals and make recommendations to the Governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in this section, ***Section 7 of this Act*** [~~KRS 164.010~~], 164.125, and 164.290 to 164.295 shall be construed to grant the Council on Higher Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Approve the teacher education programs in the public institutions.

(10) Elect a ***chairperson*** [~~chairman~~] annually from the voting membership and appoint an executive director and [~~such~~] staff [~~as may be~~] needed and fix their compensation without limitation of the provisions of KRS Chapter 18A and KRS 64.640, subject to the approval of the commissioner of personnel and the secretary of the Finance and Administration Cabinet. ***No relative of a Council on Higher Education member shall be employed by the agency.***

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of higher learning. ***The*** [~~Such~~] responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment.

(12) Develop procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate after July 15, 1980. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee.

(13) Monitor and report on compliance with KRS 164.351. The report shall be transmitted to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee.

(14) Develop in cooperation with each state institution of higher education a comprehensive orientation program to be carried out by the respective institution for newly-appointed governing board trustees and regents. The orientation program shall include, but not be limited to, the presentation of information concerning the respective institution's mission, budget, plans, policies, strengths, and weaknesses.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Governor's Higher Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Higher Education Nominating Committee, a member at the time of appointment shall possess an undergraduate degree from an accredited institution of higher education and shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public institution of higher education or the Council on Higher Education during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;

2. Council on Higher Education Student Advisory Committee;

3. Associations representing faculty from universities and community colleges;

4. Associations representing university and community college alumni;

5. Higher education advocacy groups;

6. The State Board for Elementary and Secondary Education; and

7. Associations representing business and civic interests.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;

2. Two (2) members shall serve a four (4) year term; and

3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the 1992 Senate and House of Representatives for confirmation as soon as practicable following the effective date of this Act. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to Sections 4, 5, and 6 of this Act and to the Council on Higher Education pursuant to Section 7 of this Act, except the student member. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to Sections 4 and 6 and the student appointments made pursuant to Sections 4, 5, and 6 of this Act. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Higher Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(b) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen board vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.

(2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:

1. Two (2) members shall serve one (1) year terms;

2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;

3. Three (3) members shall serve three (3) year terms;

4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;

5. Three (3) members shall serve five (5) year terms; and

6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.

(b) Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth; three (3) shall be representative of agricultural interests; and ten (10) shall be other distinguished citizens representative of the learned professions.

(c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.

(d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(3) (a) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(b) The faculty member representing the community college system shall be a teaching or research member at one (1) of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one (1) of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or, his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).

(6) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the three (3) faculty members.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, and Northern Kentucky University shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. Each board shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) One (1) member shall serve a three (3) year term;

(d) One (1) member shall serve a four (4) year term;

(e) Two (2) members shall serve five (5) year terms; and

(f) Two (2) members shall serve six (6) year terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(6) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(7) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.

(2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.

(4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:

(a) Two (2) members shall serve one (1) year terms;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.

(5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.

(6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.

(7) No member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a Council on Higher Education in Kentucky, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the chief state school officer, and seventeen (17) lay members appointed by the Governor: one (1) from each Supreme Court district, ten (10) at large members which shall include a student member.

(2) The student member shall be enrolled as a full-time student at a state public institution of higher education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four-year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves, shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.

(3) Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor, one (1) of whom may reside outside the Commonwealth. The gubernatorial appointments shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The lay members shall constitute the voting membership of the council.

(4) After the initial appointments, the lay members shall be appointed for regular terms of six (6) years, except for the student member who shall serve a one (1) year term. The initial appointments shall be as follows:

(a) Two (2) members shall serve one (1) year terms, one of which shall be the student member;

(b) Three (3) members shall serve two (2) year terms;

(c) Three (3) members shall serve three (3) year terms;

(d) Three (3) members shall serve four (4) year terms;

(e) Three (3) members shall serve five (5) year terms; and

(f) Three (3) members shall serve six (6) year terms.

(5) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.

(6) When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No appointing authority shall appoint himself or his spouse, or the Governor or his spouse to a university governing board created pursuant to Sections 4, 5, or 6 of this Act, or to the Council on Higher Education created pursuant to Section 7 of this Act.

(2) No full-time employee of a public institution of higher education shall be eligible to serve on the Council on Higher Education or on the governing board of another institution of higher education, except the community college faculty representative serving on the University of Kentucky Board of Trustees.

(3) All university governing board members created pursuant to Sections 4, 5, and 6 of this Act and the members of the Council on Higher Education shall have no conflict of interest pursuant to KRS 45A.340, except for compensation paid to faculty, staff, or student members.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The boards created pursuant to Sections 4, 5, and 6 shall be successor boards to those established pursuant to KRS 164.130, 164.320 and 164.820 and shall assure continuance of all legal and contractual rights, functions, duties, and liabilities, including, but not limited to, those associated with outstanding bonds.

Section 10. KRS 164.050 is amended to read as follows:

The members of the council shall receive sixty-five dollars ($65) per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council, ***except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel.*** Each institution shall pay the expenses of its own representatives. The expenses [~~of the members~~] of the ***chief state school officer*** [~~State Board for Elementary and Secondary Education and of the superintendent of public instruction~~] shall be paid by the state in the same manner as ***his*** [~~their~~] other traveling expenses are paid.

Section 11. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. [~~The place of meeting shall be designated by the superintendent of public instruction.~~] At this meeting there shall be elected a ***vice chairperson*** [~~vice-chairman~~] and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, ***except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel.*** The expenses shall be paid out of the funds of the university or college.

Section 12. KRS 164.170 is amended to read as follows:

(1) The board of trustees of the university shall meet on Tuesday preceding the regular annual commencement of the university, on the third Tuesday in September, on the second Tuesday in December, and on the first Tuesday in April of each year. Special meetings may be called by the ***chairperson*** [~~chairman~~] or by any three (3) members upon giving ten (10) days' written notice to each member of the board of trustees. The business to be transacted at special meetings shall be specified in the notice of the meeting. All meetings shall be held on the campus of the university unless otherwise specified by a majority vote of the board of trustees. A majority of the voting members of the board of trustees shall constitute a quorum. All necessary expenses incurred by the trustees in going to, returning from and while attending meetings of the board of trustees shall be paid out of the funds of the university, ***except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel.***

(2) The meetings of the board of trustees shall be open to the public. The board of trustees shall cause a stenographic transcript of each of its meetings to be prepared and filed. An agenda for each of the meetings shall be sent to each member of the board of trustees and a copy [~~thereof~~] made available to the press.

Section 13. KRS 164.225 is amended to read as follows:

Anything in any statutes of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions and official relations of all employees of the University of Kentucky, as provided in KRS 164.220, and, subject to any restrictions imposed by general law, the retirement ages and benefits of such employees, shall be under the exclusive jurisdiction of the board of trustees of the University of Kentucky, which shall be an independent agency and instrumentality of the Commonwealth. ***No relative of a board of trustee member shall be employed by the university.***

Section 14. KRS 164.360 is amended to read as follows:

(1) Each board of regents may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed ***at an institution where his relative serves on the board of regents for that institution*** [~~who is related to any member of the board of regents as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, brother-in-law, son-in-law or daughter-in-law, except that upon written recommendation of the president of the university or college, one (1) such relative of each member of the board of regents may be appointed upon confirmation by the other three (3) appointed members~~].

(3) Each board may remove the president of the university or college, and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the ***chairperson*** [~~chairman~~] of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 15. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members and other personnel and determination of the compensation, duties and official relations of each. ***No relative of a board of trustee member shall be employed by the university.***

(b) Suspension or removal of the president, officers, faculty, agents or other personnel that it is authorized to appoint, except that no president, professor or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty or for immoral conduct and that such removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a ***vice chairperson*** [~~vice-chairman~~] and such other officers as it deems wise, including the annual election of a five-member executive committee which shall have the powers that the board delegates to it and shall operate under such rules as the board shall establish under its authority to make such bylaws, rules and regulations consistent with this chapter.

(d) Receipt, retention and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of such reports from the president, officers, faculty and employees as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(2) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 16. KRS 63.080 is amended to read as follows:

(1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.

(2) Members of the board of trustees of the University of Kentucky, ***the board of trustees of the University of Louisville,*** members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, and Murray State University, and members of the State Board for Elementary and Secondary Education ***and the Council on Higher Education*** shall not be removed except for cause.

Section 17. KRS 164.150 is amended to read as follows:

No member of ***a governing board of a public institution of higher education*** [~~the board of trustees~~] shall be held to be a public officer by reason of his membership on the board except as provided in KRS 45A.335 for the purpose of KRS 45A.340.

Section 18. KRS 164.335 is amended to read as follows:

In addition to the qualifications provided in ***Section 4 of this Act*** [~~KRS 164.130~~] for members of the board of trustees of the University of Kentucky, in ***Section 6 of this Act*** [~~KRS 164.820~~] for members of the board of trustees of the University of Louisville, and in ***Section 5 of this Act*** [~~KRS 164.320~~] for members of the board of regents of other Kentucky universities and state colleges, no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any state supported college or university.

Section 19. KRS 164.290 is amended to read as follows:

(1) The state colleges formerly designated as Eastern Kentucky State College, Morehead State College, Murray State College, Western Kentucky State College, Northern Kentucky State College, and Kentucky State College may be known and recognized as Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Northern Kentucky University, and Kentucky State University.

(2) Kentucky State University located at Frankfort, Kentucky, is a land-grant state institution and, as such, all the provisions of KRS Chapter 164[~~, with the exception of the provisions of KRS 164.320 concerning the appointment of the initial board of regents, applying to the other five (5) regional universities~~] shall likewise apply to Kentucky State University. It is the intent of the General Assembly that Kentucky State University shall serve as a four-year residential institution emphasizing a program of liberal studies appropriate to its size and resources.

Section 20. KRS 164.540 is amended to read as follows:

(1) The Council on Higher Education in Kentucky as defined in ***Section 7 of this Act*** [~~KRS 164.010~~] is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and administer the rights, benefits and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop or maintain in any manner any educational institution within its borders to which negroes will not be admitted on an equal basis with other races, nor shall any negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races.

Section 21. The following KRS sections are repealed:

164.010 Council on Higher Education — Membership — Terms.

164.130 Board of trustees.

164.320 Membership of boards of regents.

164.820 Board of trustees.

Section 22. This section shall prevail over any conflicting provision of this Act. Effective July 1, 1992, all university governing boards established pursuant to KRS 164.130, 164.320, and 164.820 and the Council on Higher Education established pursuant to KRS 164.010 shall be abolished and the terms of members serving on the boards and the council on June 30, 1992, shall be terminated. Members who serve on a university governing board on that date as a faculty, staff, alumni, or student member shall be appointed to their respective, newly-created boards to serve as those representatives for a term set pursuant to Sections 4, 5, or 6 of the Act, except the terms of the faculty members of each board established in Sections 4 and 5 shall be until the expiration of the term for which they were elected to serve on the board pursuant to KRS 164.130 and 164.320. All other gubernatorial appointments to the university governing boards and the Council on Higher Education established pursuant to Sections 4, 5, 6, and 7 of this Act shall be made in accordance with the procedure established in Section 3, except as follows:

(1) In making the initial gubernatorial appointments to the University of Kentucky Board of Trustees established in Section 4 of this Act, the Governor shall consider the thirteen lay (13) members serving on June 30, 1992, and twenty-six (26) names submitted by the Nominating Committee. Of the thirteen (13) appointments, the Governor shall appoint six (6) members who served on June 30, 1992, to the newly-created board;

(2) In making the initial gubernatorial appointments to the University of Louisville Board of Trustees established in Section 6 of this Act, the Governor shall consider the fifteen lay (15) members serving on June 30, 1992 and thirty (30) names submitted by the Nominating Committee. Of the fifteen (15) appointments, the Governor shall appoint seven (7) members who served on June 30, 1992, to the newly-created board;

(3) In making the initial gubernatorial appointments to the Board of Regents at each of the regional universities established in Section 5 of this Act, the Governor shall consider the eight (8) lay members serving on each of the boards on June 30, 1992, and sixteen (16) names for each of the boards submitted by the Nominating Committee. Of the eight (8) appointments, the Governor shall appoint four (4) members who served on June 30, 1992, to each of the newly-created boards; and

(4) In making the initial gubernatorial appointments to the Council on Higher Education established in Section 7 of this Act, the Governor shall consider the sixteen (16) lay members serving on June 30, 1992, and thirty-two (32) names submitted by the Nominating Committee. Of the sixteen (16) appointments, the Governor shall appoint eight (8) members who served on June 30, 1992, to the newly-created council.

Section 23. Whereas it is critical that Kentucky higher education be guided by strong, well-qualified leadership, an emergency is declared to exist and all of Section 2 except subsection (8) and Sections 3 and 22 of this Act shall become effective upon its passage and approval by the Governor, and subsection (8) of Section 2 and Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21, shall become effective on July 1, 1992.

The Senate Floor Amendment No. 1 to **HB 149** is as follows:

Amend printed copy of **HB 149/SCS** as follows:

On page 7, lines 20 through 22, by deleting "***shall possess an undergraduate degree from an accredited institution of higher education and***".

Representative Scorsone moved that the House concur in the Senate Committee Substitute to **HB 149**. Agreed.

Representative Scorsone moved that the House concur in Senate Floor Amendment No. 1 to **HB 149**. Agreed

Representative Scorsone moved that **HB 149**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 63, Nays 32. (See February 14, 1992 roll call on **HB 149** - Appendix.)

HB 149, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 149**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration, Committee on Rules Report and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 536, by Representatives Sanders, Hourigan, Brown, Gedling, Altman, Pritchett, Gee, Nunn and Ridley: AN ACT relating to fish and wildlife.

HB 537, by Representative Heleringer: AN ACT relating to a pledge to the state flag.

HB 538, by Representatives Lear and LeMaster: AN ACT relating to corporations and declaring an emergency.

HB 539, by Representatives Lear and K. Harper: AN ACT relating to business solicitations by telephone.

HB 540, by Representatives Rapier, Blandford, Nelson, Stumbo, Brown, R. Smith, McElroy, Butler, Bronger, Ridley, Cyrus, Richards, Adkins and L. Clark: AN ACT relating to the environment.

HB 541, by Representatives Richardson, Crupper, Gedling, Sanders, Reinhardt, Collins and McElroy: AN ACT relating to seeds and seedlings.

HB 542, by Representatives Richards, Stumbo, P. Clark, Bronger, Brown, Yates, Butler, Hatcher, Burch and L. Clark: AN ACT relating to retirement.

HB 543, by Representatives Stumbo, Bowling, Little, Bronger, Ballard, T. Smith, L. Clark, Hourigan, Nunn, Nelson, Bryant, Pritchett, R. Smith, Jensen, Ridley, Noe, Maggard, Deskins, McElroy, Adkins, Bentley, Collins, Mason, Clarke and Cyrus: AN ACT relating to economic assistance for local governments, making an appropriation, and declaring an emergency.

HB 544, by Representatives Nunn, Bowling, Geveden, Bentley and Riggs: AN ACT relating to workers' compensation.

HR 100, by Representatives Mason and Bentley: A RESOLUTION adjourning in memory of nineteen year old, John Randall Adams, an emergency medical technician with the Neon Volunteer Fire Department and a member of both the Neon Volunteer Fire Department and the Mayking Volunteer Fire Department.

HR 101, by Representative J. Harper: A RESOLUTION expressing the sense of the House of Representatives that the sport of "frog jumping" should be prohibited within the Commonwealth.

HR 102, by Representatives Sheehan and Callahan: A RESOLUTION honoring the Covington National ASsociation for the Advancement of Colored People upon its first anniversary.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 260, SB 18**

Appropriations and Revenue: **HB 517, HB 521, HB 523, HB 525, HB 526, HJR 85, HJR 86, HJR 87**

Transportation: **HB 417, HB 393, HB 436, HB 437, HJR 23, HJR 73, SB 50**

Counties and Special Districts: **HB 219, HB 390, HB 408, HB 410, HB 329, HB 480, HB 505**

The following Bills have been withdrawn from Committee consideration:

Education: **HB 268, HB 243**

Report of Committees (Continued)

The Committee on Rules reported that **HB 89** has been posted for passage in the Orders of the Day for February 18, 1992.

Motions, Petitions and Communications (Continued)

Representative Mason moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Mason moved the adoption of the following **HR 100**:

HR 100, A RESOLUTION adjourning in memory of nineteen year old, John Randall Adams, an emergency medical technician with the Neon Volunteer Fire Department and a member of both the Neon Volunteer Fire Department and the Mayking Volunteer Fire Department.

WHEREAS, John Randall Adams' courage endured long after being seriously burned while fighting an Eastern Kentucky forest fire; and

WHEREAS, John Randall Adams died couragously Sunday, December 1, 1991, at the University of Kentucky Medical Center, one month after the blazing Eastern Kentucky forest fire overtook him; and

WHEREAS, life is what our character makes it and John Randall Adams' character was notably one of devotion to humane undertakings; and

WHEREAS, John Randall Adams is survived by his parents, Randall and Ralpha Fugate Adams; one sister, Betsy Ann Harrington; his maternal grandmother, Marie Fugate; and many other relatives and friends; and

WHEREAS, John Randall Adams will be remembered for his courage and humanitarianism and will be sadly missed by his family and friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the death of John Randall Adams and does extend to his family and friends its most heartfill sympathy.

Section 2. That when the House of Representatives adjourns today, it does so in memory of John Randall Adams.

Section 3. That the Clerk of the House is directed to send a copy of this Resolution to Randall and Ralpha Adams, Cram Creek Road, Mayking, Kentucky, 41837.

HR 100 was adopted by voice vote.

Representative Mason moved that a call of the roll be taken to show co-sponsors of **HR 100**.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Keith, Kerr, LeMaster, Lewis, Lile, Little, Lyne, Mack, Mason, McElroy, Moberly, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Yates, Zimmerman. Nays 0.

Representative J. Harper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative J. Harper moved the adoption of the following **HR 101**:

HR 101, A RESOLUTION expressing the sense of the House of Representatives that the sport of "frog jumping" should be prohibited within the Commonwealth.

WHEREAS, the insidious practice of "frog jumping" is a blight on the conscience of the Commonwealth; and

"Frog jumping" connotes a seemingly-harmless event but is in reality the barbarous manipulation and torture of innocent amphibians; and

WHEREAS, "frog jumping" is akin to the pastime of "frog gigging," which is another interaction between humans and frogs that is only appealing to one of the participants; and

WHEREAS, "frog jumping" can only be considered a "sport" in the most perverse sense of the term because the frog is neither trained nor skilled for its performance; and

WHEREAS, frogs are well known for their mystical qualities of turning into princes upon being kissed by a beautiful maiden, and to prod a prince, even in disguise, to "jump" is in extremely bad tase.

WHEREAS, the stature and esteem of the people of the Commonwealth are diminished by the continued participation in the inhumane practice of making tailless creatures hop for the presence of spectators;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. It is the sense of the Kentucky House of Representatives that the sport of "frog jumping" should be forever prohibited within the Commonwealth.

HR 101 was adopted by voice vote.

Representative Sheehan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Sheehan moved the adoption of the following **HR 102**:

HR 102, A RESOLUTION honoring the Covington National Association for the Advancement of Colored People upon its first anniversary.

WHEREAS, upon this anniversary the Covington National Association for the Advancement of Colored People is committing itself to forming a brotherhood to fight drugs and other social problems; and

WHEREAS, the Association will celebrate its anniversary with a "brotherhood brunch" from 11 a.m. to 12:30 p.m., Saturday, February 15, 1992, at the Randolph-Jackson Hall, 121 Lynn Street, Covington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the Covington National Association for the Advancement of Colored People upon its first anniversary.

Section 2. That this honorable body hails the Covington NAACP for its commitment to form a brotherhood to fight drugs and other social problems.

Section 3. That the clerk of the House is directed to transmit a copy of this Resolution to Reverend Donald E. Newberry, Jr., Saint James African Methodist Episcopal Church, 121 Lynn Street, Covington, Kentucky 41011.

HR 102 was adopted by voice vote.

Representative Bowling moved the adoption of the following Legislative Citation No. 24. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends the Honorable Scott Madon for your distinguished services to the people and city of Pineville during your tenure as mayor. Your dedication to your office has brought prosperity to the community. Your exceptional leadership and high standard of performance requiring the best at all times is most exemplary, productive and rewarding.

This prestigious body joins Representative Mike Bowling in recognizing you for your outstanding contributions to the citizens and city of Pineville. We extend best wishes for future success. (Sponsored by Representative Bowling)

The following members filed requests to have their names added as co-sponsors to Bills:

HB 203, Representative Kerr; **HB 340**, Representative Callahan; **HB 354** and **HB 365**, Representative Ridley; **HB 529**, Representative Ward.

Announcements

The following meetings were announced:

Appropriations and Revenue Subcommittee on Human Resources, February 14, 1992 upon adjournment.

Appropriations and Revenue Subcommittee on Human Resources, Public Hearing, 9:00 a.m., February 18, 1992.

Appropriations and Revenue, 11:00 a.m., February 18, 1992.

Banking and Insurance, 10:00 a.m., February 18, 1992.

Budget Review Subcommittee on General Government, 10:00 a.m., February 17, 1992.

Cities, February 18, 1992, upon adjournment.

Budget Review Subcommittee on Education, February 18, 1992, upon adjournment.

Agriculture and Small Business, 12:00 noon, February 18, 1992 in Room 327.

Business Organizations and Professions, 12:00 noon, February 18, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, February 18, 1992.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, K. Harper, Hourigan, Jones, Keith, Kerr, Lear, Lewis, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Casebier, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 18, 1992

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Tony Trunnell, Valley View Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Pritchett.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 14, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 70, SB 161, HB 111, HB 138** and **HCR 10**. (Time: 2:04 p.m.)

Introduction of Bills and Resolutions

HB 545, by Representative Lewis: AN ACT relating to instructional materials.

HB 546, by Representative Ward: AN ACT relating to the registration of sex offenders.

HB 547, by Representatives Castleman and Crupper: AN ACT relating to poultry carcasses.

HB 548, by Representative Nelson: AN ACT relating to motor vehicle insurance.

HB 549, by Representative Nelson: AN ACT relating to the operation of boats.

HB 550, by Representatives Heleringer, Donnermeyer, Sheehan, Callahan, Williams, Allen, P. Clark, Butler, Kerr, Yates, Lile, Todd and Casebier: AN ACT relating to assisting a suicide.

HB 551, by Representative L. Clark: AN ACT relating to utility affiliates.

HR 103, by Representative Hancock: A RESOLUTION adjourning the House of Representatives in loving memory of Peggy Ayers King.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 541**

Appropriations and Revenue: **HB 543**

Elections and Constitutional Amendments: **HB 534**

Judiciary: **HB 538, SB 47**

Labor and Industry: **HB 539, HB 544**

Natural Resources and Environmental Protection: **HB 540**

State Government: **HB 537, HB 535, HB 542**

Tourism Development and Energy: **HB 536**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 370**, **HB 426**

Cities: **HB 402**, **HB 458**, **HB 493**, **HB 499**, **HB 508**

Natural Resources and Environmental Protection: **HB 386**

The following Bill has been withdrawn from Committee consideration:

Education: **HB 309**

Floor Amendments

Floor Amendment No. 8 to the Committee Substitute to **HB 106**, by Representative LeMaster:

Amend printed copy of **HB 106/HCS** as follows:

On page 16, after line 10, by adding the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

Personal information concerning victims of crimes maintained by law enforcement agencies and attorneys for the Commonwealth shall be excluded from the application of KRS 61.870 to 61.884."

Report of Committees

The Committee on Banking and Insurance reported **HB 97**, with Committee Substitute attached thereto, and **HB 466** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of KRS Chapter 304 nor any choice of law provision in any insurance contract, if a group or blanket health insurance policy that insures a resident of Kentucky is delivered or issued for delivery outside the Commonwealth of Kentucky, the provisions of KRS Chapter 304 shall control the insurance policy if Kentucky, rather than the state in which the policy was delivered or issued for delivery, has the greater interest in and the most significant relationship to the insurance transaction and the parties.

(2) For purposes of this section, whenever a group or blanket health insurance policy provides coverage for a resident of Kentucky who files a claim which arose from an accident or illness in Kentucky, Kentucky shall be deemed to have the greater interest in and the most significant relationship to the insurance transaction and the parties.

The Committee Substitute to **HB 97** is as follows:

HB 97, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of this chapter nor any choice of law provision in any insurance contract, if a group or blanket health insurance policy affects the rights of a Kentucky insured and bears a reasonable relationship to Kentucky, the provisions of this chapter shall control the insurance policy.

(2) For purposes of subsection (1) of this section, a group or blanket health insurance policy shall be deemed to affect the rights of a Kentucky insured and bear a reasonable relationship to Kentucky when, but not limited to, the policy provides coverage for a resident of Kentucky who files a claim which arose from an accident that occurred in Kentucky or a medical condition for which the insured received or is receiving treatment in Kentucky.

HB 466, AN ACT relating to liability of lender-owners and subsequent purchasers for contamination or pollution of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Beneficiary" means any beneficiary, heir, ward, or other represented person or any other party interested in the estate, trust, or other property managed by a representative.

(b) "Cleaning up" or "clean up" means remedying or minimizing contamination or pollution.

(c) "Contaminate or pollute," "contaminating or polluting," or "contamination or pollution" means the presence in the environment of any substance in sufficient quantity and of such characteristic and duration as is or threatens to be injurious to human, plant, or animal life or property, or which unreasonably interferes with the comfortable enjoyment of life or property. These terms include, but are not limited to, contamination or pollution from air contaminants, asbestos, biological materials, chemicals, discarded or abandoned substances, fertilizers, garbage, hazardous substances, herbicides, organic chemicals, pesticides, plant growth regulators, radioactive materials, refuse, sewage, trash, wastes, hazardous wastes, solid wastes, and special wastes.

(d) "Government liability" means any clean up obligation imposed by any state or local law, regulation, ordinance, permit or order, or any clean up obligation regulated by any state or local governmental agency.

(e) "Lender-owner" means any person which had a security interest in or mortgage or lien upon any real or personal property, forecloses on or receives an assignment or deed in lieu of foreclosure or otherwise becomes the owner of the real or personal property in order to realize on the obligation secured, and did not become the owner primarily for the purpose of avoiding any third party liability or government liability. The term also means any person who merges or otherwise combines operations with a lender-owner, if the merger or other combination was not primarily for the purpose of avoiding any third party liability. Knowingly obtaining a security interest in, or mortgage or lien upon, any real or personal property which is contaminated or polluted shall not be, in and of itself, sufficient to demonstrate that a person became the owner primarily for the purpose of avoiding any third party liability.

(f) "Lender-owner property" means real or personal property acquired by a person in a manner that the person is a lender-owner with respect to the property.

(g) "Person" means an individual, corporation, partnership, joint venture, association, or other entity, or any director, officer, employee or agent of any of the foregoing.

(h) "Regulated financial institution" means a bank, credit union, mortgage company, savings association, savings bank, thrift, trust company, or other financial institution the operations of which are substantially supervised by a state or by the federal government.

(i) "Representative" means any person or entity acting in the capacity of a receiver, conservator, guardian ad litem, personal representative of a deceased person, trustee, or fiduciary. The terms "trustee" and "fiduciary" shall be limited to entities acting as trustees or fiduciary and which are regulated financial institutions.

(j) "Subsequent purchaser" means any person who acquires lender-owner property from a lender-owner or other subsequent purchaser.

(k) "Third party" means any person, corporation, partnership, association, or other entity, except that the term does not include any governmental entity seeking to enforce valid federal, state or local environmental statutes, regulations, ordinances, permits or orders.

(l) "Third party liability" means liability to a third party for any claims arising out of or resulting from contamination or pollution, including their limitation, claims for property damage, personal injury, consequential damages, lost profits, and exemplary damages.

(m) A thing is done "in good faith" when it is in fact done honestly, whether it be done negligently or not.

(n) A person acts "knowingly" with respect to conduct or to a circumstance when he is aware that his conduct is of that nature or that the circumstance exists.

(o) A person acts "recklessly" with respect to a result or to a circumstance when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(2) Notwithstanding any other provision of law, no lender-owner or subsequent purchaser shall incur any third-party liability or government liability because of contamination or pollution emanating from or existing on real or personal property either prior to or after the date that title vests in the lender-owner or subsequent purchaser so long as the lender-owner or subsequent purchaser does not knowingly or recklessly cause the contamination or pollution.

(3) For purposes of this section, a lender-owner or subsequent purchaser who does not knowingly or recklessly cause contamination or pollution on the lender-owner's property shall be deemed to be holding indicia of ownership primarily to protect a security interest in the lender-owner's property.

(4) (a) A representative shall have the power to take any action he in good faith deems necessary to prevent, abate, clean up, remedy, or otherwise respond to any contamination or pollution arising out of, relating to, or affecting any real or personal property held by the representative in his representative capacity. Actions may be taken prior to the initiation of enforcement actions by a federal, state, or local agency. A representative shall not be personally liable to any beneficiary for any claim, including any claim for diminution in the value of the estate or trust, based upon any action.

(b) Notwithstanding any other provision of law except as provided in paragraph (c) of this subsection, third party liability or government liability for contamination or pollution arising out of or relating to assets held or managed by a representative in its capacity as a representative may be satisfied only from the assets held by the representative in the same estate or trust which contains the assets from which the contamination or pollution arises out of or relates to.

(c) A representative may be personally responsible for third party liability or government liability or otherwise cleaning up contamination or pollution only if the representative knowingly or recklessly caused the new contamination or pollution. This paragraph shall not be interpreted as constituting an independent basis for imposing liability, but shall constitute an additional requirement before liability may be imposed upon a representative based upon any statute, regulation, or other basis for liability.

(5) This section shall not affect any liability expressly created under any federal health or environmental statutes, regulations, permits, or orders.

(6) No provision of Sections 1 and 2 of this Act shall be enforced if its enforcement would result in the withdrawal of an authorization by the federal government for this Commonwealth, or any of its administrative agencies, to carry out any program relating to contamination or pollution, including but not limited to any authorization pursuant to Section 3006, Resource Conservation and Recovery Act of 1976, as amended, in lieu of an equivalent program administered and enforced by the federal government.

(7) In any action seeking to impose any liability for contamination or pollution upon a regulated financial institution that claims to be a lender-owner, the person seeking to impose liability shall bear the burden of proving that the regulated financial institution did not become the owner primarily for the purpose of avoiding any third party liability.

(8) This section shall apply to actions commenced on or after the effective date of this section.

Section 2. KRS 224.99-020 is amended to read as follows:

(1) The penalties set forth in KRS 224.99-010 may be recoverable in an action brought in the name of the Commonwealth of Kentucky by cabinet counsel. In any such action any finding of the cabinet shall be prima facie evidence of the fact or facts found therein.

(2) It shall be the duty of the Attorney General, upon the request of the cabinet, to appoint cabinet counsel as a special Attorney General in order to institute an action for the recovery of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto. In any such action any findings of the cabinet shall be prima facie evidence of the fact or facts found therein.

(3) ***Except as provided in Section 1 of this Act,*** nothing contained in this chapter shall abridge the right of any person to recover actual compensatory damages resulting from any violation of this chapter.

The Committee on Business Organizations and Professions reported **HB 330**, with Committee Substitute attached thereto, **HB 340, HB 494, HJR 55** and **SB 71** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 330, AN ACT relating to psychologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) If it appears that a psychologist is mentally or physically incapable of practicing psychology with reasonable skill and safety to patients or clients, pursuant to subsection (1)(q) of Section 9 of this Act, the board may order the psychologist in question to submit to a psychological examination by a psychologist to determine psychological status, or to a physical examination by a physician to determine physical condition. The psychologist or physician examiner shall be designated by the board. The board may order that the expense of the examination be borne by the psychologist being examined.

(2) Every psychologist licensed or certified to practice psychology in the Commonwealth shall be deemed to have given consent to submit to a mental or physical examination, or both, and to waive all objections to the admissibility of the examinations or to previously adjudicated evidence of mental or physical impairment.

Section 2. KRS 319.005 is amended to read as follows:

No person [~~not licensed or certified as provided in this chapter~~] shall engage in [~~any practice the board finds constitutes~~] the practice of psychology as defined in KRS 319.010 ***or hold***[~~, and is against the public interest and holds~~] himself out by any title or description of services [~~representing himself as a psychologist~~] which incorporates the words "psychological," "psychologist," ***or*** "psychology"***, unless licensed or certified by the board***[~~; except as such usage of title or description is authorized by this chapter~~]. No person [~~not licensed or certified~~] shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he is [~~so~~] licensed or certified***, unless he holds a valid license or certificate issued by the board.***

Section 3. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit:

(1) The activities, services, and use of title on the part of a person in the employ of the federal government or accredited institutions of higher education ***in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony. The board may, however, limit the delivery or supervision of direct psychological services to individuals or groups***[~~, insofar as such activities and services are a part of the official duties in this salaried position~~];

(2) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from ***rendering services consistent with the laws regulating their professional practice and the ethics of their profession, if they do not represent themselves to be*** [~~practicing those arts and utilizing psychological procedures within the scope of their practices and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession, provided that they do not hold themselves out as~~] psychologists;

(3) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable by the board for qualifying training and experience, provided such activities ***are recognized by transcript as*** [~~constitute~~] a part of his supervised course of study;

(4) The recognized educational activities of teachers in accredited public and private schools, [~~or~~] the authorized duties of guidance counselors who are certified by the state board for elementary and secondary education, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;

(5) ***Persons who are credentialed as school psychologists by the Kentucky Department of Education from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their***

practice is restricted to regular employment within a setting under the purview of the Kentucky Department of Education. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions [~~The recognized titles and professional activities of school psychologists and psychometricians in accredited public and private schools who are certified by the state board for elementary and secondary education. Provided, however, nothing in this chapter shall be construed as permitting any psychologist or psychometrician not licensed or certified by the state board of psychology to engage in the practice of psychology other than as an employee of such school system~~];

(6) A duly ordained minister, priest, rabbi, christian science practitioner, or other clergyman from carrying out his responsibilities while functioning in his ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, ***if*** [~~provided~~] he does not hold himself out as a psychologist; or

(7) Any nonresident temporarily employed in this state ***from rendering*** [~~to render~~] psychological services for not more than thirty (30) days every two (2) years***, if he*** [~~who~~] holds a valid current license or certificate ***as a psychologist*** [~~that would allow such practice~~] in his home state or [~~home~~] country and [~~who~~] registers with the board ***prior to commencing practice in the Commonwealth***.

Section 4. KRS 319.020 is amended to read as follows:

(1) The board shall consist of ***nine (9)*** [~~seven (7)~~] members appointed by the Governor. ***Six (6)*** [~~Four (4)~~] members shall be licensed psychologists. Two (2) members shall be certified by the board as certified psychologists or psychological associates. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business regulated.

(2) Licensed psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists licensed under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists licensed according to the provisions of this chapter and each nominee shall be a psychologist licensed according to the provisions of this chapter. Each psychologist member shall be ***a resident*** [~~an elector~~] of this state and [~~shall have~~] engaged in the practice or teaching of psychology as a licensed psychologist for at least three (3) years in this state.

(3) Certified psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists and psychological associates certified under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists and psychological associates certified according to the provisions of this chapter. Each nominee shall be a resident of this state, certified according to the provisions of this chapter, and [~~shall have~~] engaged in the practice or teaching of psychology as a certified psychologist or psychological associate for at least three (3) years in this state.

(4) The term of each board member shall be four (4) years and until a successor is appointed and qualified, except that in ***1992*** [~~1986~~], one (1) ***licensed*** [~~certified~~] member shall be appointed for a term of two (2) years and one (1) ***licensed*** [~~certified~~] member shall be appointed for a term of four (4) years. ***After the effective date of this Act, the seven (7) appointed board members currently serving shall serve as board members until their respective terms expire.*** No member shall serve more than two (2) consecutive full terms. The Governor shall fill any vacancy occurring in the board in the manner prescribed in subsection (2) of this section. Upon recommendation by a majority of the board members and after notice and a hearing, the Governor shall remove any member for incompetence, neglect of duty, or malfeasance in office.

(5) ***Five (5)*** [~~Four (4)~~] members of the board shall constitute a quorum. Each member shall receive one hundred dollars ($100) per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. Annually the board shall elect one (1) of its licensed members as chairman. No person shall serve more than two (2) consecutive ***full*** terms as chairman. The board shall meet at least twice annually and at [~~such~~] other times as it determines ***necessary***. Special meetings may be called by the chairman and shall be called upon the written request of two (2) members.

Section 5. KRS 319.032 is amended to read as follows:

(1) The board shall ***promulgate*** [~~adopt~~] administrative regulations:

(a)[~~(1)~~] Establishing requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses or certificates; ***defining*** [~~define~~] areas of specialty within the field of psychology; and ***preparing or selecting and administering*** [~~prepare or~~

~~select and administer~~] examinations on general psychological knowledge and on the appropriate psychological specialty or specialities of the applicant. Neither certified psychologists nor psychological associates may participate in the examination of applicants for licensures;

(b)[~~(2)~~] Establishing and defining the scope of practice within each area of speciality within the field of psychology;

(c)[~~(3)~~] Setting the requirements for issuing, denying, suspending, ***restricting,*** and revoking licenses and certificates, and placing licensees and certificate holders on probation;

(d) Establishing requirements for continuing education as a condition for renewal of licenses and certificates;

(e)[~~(4)~~] Establishing and collecting reasonable fees for directories, [~~for~~] transcribing***,*** [~~and~~] transferring ***of*** records***,*** and other services;

(f)[~~(5)~~] Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board. Every [~~such~~] hearing officer shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript or mechanical recording of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions***,*** [~~and~~] objections***,*** and all rulings of the hearing officer;

(g)[~~(6)~~] Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure or certification[~~. An individual whose qualifications meet or exceed the standards for licensure in Kentucky may be licensed without examination. An individual whose qualifications meet or exceed the standards for certification in Kentucky may be certified without examination~~];

(h)[~~(7)~~] Employing personnel***,*** including hearing officers which it considers necessary for the performance of its functions, determining the duties of [~~such~~] personnel, and compensating them within the limits of funds available to the board;

[~~(8) The board, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the board, inspectors and for members of the staff exempted from classified service of the state by KRS 18A.115;~~]

(i)[~~(9)~~] Investigating complaints or suspected violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this chapter, the board shall have the authority to administer oaths, receive evidence, interview persons, ***issue subpoenas,*** and require the productions of books, papers, documents***,*** or other evidence;

(j)[~~(10)~~] Governing the supervision of certified psychologists [~~and candidates for licensure,~~] and [~~regulations governing~~] the supervision and employment of psychological associates ***and candidates for licensure***; ***and***

[~~(11) Providing for the performance of all other functions necessary to carry out the provisions of law and the administrative regulations adopted by the board relating to psychologists and the practice of psychology;~~]

(k)[~~(12)~~] Notwithstanding the fee schedules specified in this chapter, ***increasing or decreasing*** [~~the board may, for good cause, increase or decrease~~] fees as it deems appropriate; [~~and~~]

(2)[~~(13)~~] The board shall have the authority to ***promulgate*** [~~adopt~~] such other administrative regulations as it deems necessary for the proper administration of this chapter.

(3) The board, at its discretion, may use funds as necessary to purchase liability insurance for members and executive officers of the board, inspectors, examiners, investigators, and staff members exempt from classificated service of the state by KRS 18.115.

Section 6. KRS 319.050 is amended to read as follows:

(1) Before granting a license to practice psychology and to use the title "***Licensed*** Psychologist" the board shall require the applicant to pass an examination in psychology ***and to fulfill all requirements for supervised experience.***

(2) The applicant shall:

(a) Pay a fee not to exceed ***three*** [~~two~~] hundred dollars ***($300)*** [~~($200)~~];

(b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States, if ***the*** [~~such~~] educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Have had at least ***two (2) years*** [~~one (1) year~~] of supervised professional experience satisfactory to the board***, one (1) year of which shall be postdoctoral.***

(3)[~~(2)~~] Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of ***supervision and*** temporary licensure established by the board. ***During this period of supervision, the temporarily licensed psychologist may not supervise certified psychologist, psychological associates, other applicants for licensure, or temporarily licensed persons, nor shall he engage in an independent practice, except under the employment of his supervising psychologist. Upon certification to the board of completion of the one (1) full year of supervision satisfactory to the board, the applicant shall be examined in the practice of psychology.*** [~~No applicant shall supervise certified psychologists or psychological associates until he successfully completes all licensure requirements.~~]

(4)[~~(3)~~] The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(5) Upon successful completion of the examination process, the applicant may use the title "Licensed Psychologist."

(6)[~~(4)~~] Licensed psychologists may function ***independently*** without supervision and may employ and supervise certified psychologists and psychological associates. Licensed psychologists may supervise no more than a total of six (6) certified psychologists or psychological associates at one time.

(7)[~~(5)~~] The board shall after examination in a specialty area issue a license to practice psychology. ***The designation "health service provider" shall be made on the license of those psychologists who perform activities which include the delivery or supervision of direct health-care services to individual or groups who are intended beneficiaries of such services. The designation "health service provider" shall be given to those psychologists fully licensed in the specialty areas of clinical, counseling, or school psychology.***

Section 7. KRS 319.056 is amended to read as follows:

(1) A person currently authorized to use the title "certified psychologist with autonomous functioning" may continue to function without supervision in the area specified on the certificate, unless the board revokes his certificate pursuant to KRS 319.082.

(2) ***A certified psychologist who has been granted autonomous functioning may function without supervision in areas in which he is certified. He shall not supervise certified psychologists or psychological associates.***

(3) A person currently authorized to use the title "certified psychologist" may continue to function under the supervision of a licensed psychologist in the area specified on the certificate, unless the board revokes his certificate pursuant to KRS 319.082.

(4) A certified psychologist may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board, and shall not employ or supervise other certified psychologists or psychological associates.

Section 8. KRS 319.064 is amended to read as follows:

(1) For an individual with a master's degree in psychology [~~whose application is received after January 1, 1988~~], the board shall issue a certificate to perform certain functions within the practice of psychology and to use the title "psychological associate" to any applicant who:

(a) Pays a fee not to exceed ***three*** [~~two~~] hundred dollars ***($300)*** [~~($200)~~];

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States, if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) Any psychological associate certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist ***approved by the board. The psychological associate*** [~~and~~] shall not practice independently, except under the employment and supervision of ***the board approved*** [~~a~~] licensed psychologist. A psychological associate shall not represent himself as a licensed or certified psychologist. A psychological associate shall not employ or supervise certified psychologists or psychological associates.

Section 9. KRS 319.082 is amended to read as follows:

(1) The board may suspend, [~~or~~] revoke, ***or*** [~~any license or certificate or may~~] refuse to issue or renew a license or certificate, or may accept an assurance of voluntary compliance, ***restrict,*** or [~~may~~] place a licensee or certificate holder on probation, upon proof that the licensee or certificate holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license or certificate, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope of practice defined in the speciality area of examination;

(l) Failed to provide adequate supervision for certified psychologists, psychological associates, applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient, [~~or~~] client, ***student, or supervisee***; [~~or~~]

(o) Improperly divulged confidential information;

(p) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;

(q) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

(r) Failed to comply with the requirements of the board for continuing education.

(2) No unlawful act or violation of any provision of this chapter by any certificate holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.

(3) Three (3) years from the date of a revocation, any person whose license or certificate has been revoked may petition the board for reinstatement. The board shall investigate his petition and may reinstate his license or certificate upon finding that the former holder has complied with ***the provisions of this chapter and*** [~~any reasonable~~] administrative regulations ***promulgated*** [~~prescribed~~] by the board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.

(4) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, ***restrictions,*** or refusals to issue or renew licenses or certificates at any time.

Section 10. KRS 319.092 is amended to read as follows:

(1) In every proceeding for probation, suspension, or revocation of a license or certificate, the licensee or certificate holder shall be furnished with written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place thereof at least twenty (20) days prior to the hearing. The notice is sufficient if served on the licensee or certificate holder personally or by certified mail, return receipt requested, to his last known address. The nonappearance of the licensee or certificate holder shall not prevent a hearing. The board or a hearing officer appointed by the board shall conduct the hearing. The licensee or certificate holder shall have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges. If the licensee or certificate holder fails to respond to the complaint at or before the time of the hearing thereon, the board may take the allegations set forth in the complaint as confessed.

(2) The board or the hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths and schedule hearings. All decisions revoking or suspending a license or certificate or placing a licensee or certificate holder on probation shall be made by the board.

(3) ***If, after a hearing, a majority of the board find that a psychologist has violated any provision of this chapter, the board may:***

(a) Revoke of suspend the license or impose a monetary penalty;

(b) Revoke or suspend the license or certificate or impose a monetary penalty, but suspend enforcement thereof by placing the psychologist on probation, which shall be revocable if the board finds the conditions of the probation order are not being followed by the psychologist;

(c) Require the psychologist, as a condition of probation, to submit to care, counseling, or treatment by a professional designated by the board, or require the psychologist to be supervised by a licensed psychologist designated by the board. The expense of this action shall be borne by the psychologist on probation;

(d) Modify the conditions of the probation, with good cause, and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both;

(e) Require restitution; and

(f) Assess the costs of the disciplinary proceeding.

(4) Orders of the board suspending or revoking a license or certificate or placing a licensee or certificate holder on probation shall become effective ***immediately*** [~~thirty (30) days~~] after written notice is served on the licensee or certificate holder[~~, unless an earlier date is necessary to protect the public health, welfare and safety in which case the order shall become effective as of the date specified~~] and the licensee or certificate holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the board's order is revoked or modified by a final order or judgment.

(5) The board shall make public its final order in all disciplinary hearings.

(6)[~~(4)~~] Any person aggrieved by an order of the board may within thirty (30) days after notice thereof appeal thereupon to the Franklin Circuit Court. The court shall decide the appeal upon the certified record and no new or additional evidence shall be heard or considered by the court.

(7)[~~(5)~~] A party aggrieved by a final order of the circuit court may appeal to the Court of Appeals as in a civil action.

Section 11. KRS 319.118 is amended to read as follows:

(1) Members of the board, its agents and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

(2) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the board ***may*** [~~is hereby authorized to~~] institute and maintain actions to restrain or enjoin any violation of this chapter, [~~or the~~] rules and ***administrative*** regulations***, or order*** of the board.

(3) ***The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.***

(4) The city, county***,*** [~~and~~] Commonwealth's attorney, and the Attorney General, shall within their respective jurisdictions and within their legal discretion represent the board, its agents and employees, in the enforcement of the provisions of this chapter and the rules and ***administrative*** regulations of the board.

Section 12. KRS 319.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than six (6) months, or by a fine of not more than five hundred dollars ($500), or by both [~~such~~] fine and imprisonment, and each violation shall be deemed a separate offense.

(2) Either the Attorney General or the appropriate Commonwealth's or county attorney shall have the authority to prosecute violations of KRS 319.005 to 319.111.

Section 13. The following KRS sections are repealed:

319.058 Issuance of "certified psychologist" certificate.

319.062 "Certified psychologist with autonomous functioning."

The Committee Substitute to **HB 330** is as follows:

HB 330, AN ACT relating to psychologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319.005 is amended to read as follows:

No person [~~not licensed or certified as provided in this chapter~~] shall engage in [~~any practice the board finds constitutes~~] the practice of psychology as defined in KRS 319.010 ***or hold***[~~, and is against the public interest and holds~~] himself out by any title or description of services [~~representing himself as a psychologist~~] which incorporates the words "psychological," "psychologist," ***or*** "psychology"***, unless licensed or certified by the board***[~~; except as such usage of title or description is authorized by this chapter~~]. No person [~~not~~

~~licensed or certified~~] shall engage in the practice of psychology in a manner that implies or would reasonably be deemed to imply that he is [~~so~~] licensed or certified***, unless he holds a valid license or certificate issued by the board.***

Section 2. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit:

(1) The activities, services, and use of title on the part of a person in the employ of the federal government. [~~or~~]

(2) Persons in the employ of accredited institutions of higher education ***from engaging in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony, but not including the delivery or supervision of direct psychological services to individuals or groups***[~~, insofar as such activities and services are a part of the official duties in this salaried position~~];

(3)[~~(2)~~] Perons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from ***rendering services consistent with the laws regulating their professional practice and the ethics of their profession, if they do not represent themselves to be*** [~~practicing those arts and utilizing psychological procedures within the scope of their practices and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession, provided that they do not hold themselves out as~~] psychologists;

(4)[~~(3)~~] The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable by the board for qualifying training and experience, provided such activities ***are recognized by transcript as*** [~~constitute~~] a part of his supervised course of study;

(5)[~~(4)~~] The recognized educational activities of teachers in accredited public and private schools, [~~or~~] the authorized duties of guidance counselors who are certified by the state board for elementary and secondary education, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;

(6)[~~(5)~~] ***Persons who are credentialed as school psychologists by the Kentucky Department of Education from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their practice is restricted to regular employment within a setting under the purview of the Kentucky Department of Education. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions*** [~~The recognized titles and professional activities of school psychologists and psychometricians in accredited public and private schools who are certified by the state board for elementary and secondary education. Provided, however, nothing in this chapter shall be construed as permitting any psychologist or psychometrician not licensed or certified by the state board of psychology to engage in the practice of psychology other than as an employee of such school system~~];

(7)[~~(6)~~] A duly ordained minister, priest, rabbi, Christian Science practitioner, or other clergyman from carrying out his responsibilities while functioning in his ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, ***if*** [~~provided~~] he does not hold himself out as a psychologist; or

(8)[~~(7)~~] Any nonresident temporarily employed in this state ***from rendering*** [~~to render~~] psychological services for not more than thirty (30) days every two (2) years***, if he*** [~~who~~] holds a valid current license or certificate ***as a psychologist*** [~~that would allow such practice~~] in his home state or [~~home~~] country and [~~who~~] registers with the board ***prior to commencing practice in the Commonwealth.***

Section 3. KRS 319.020 is amended to read as follows:

(1) The board shall consist of ***nine (9)*** [~~seven (7)~~] members appointed by the Governor. ***Six (6)*** [~~Four (4)~~] members shall be licensed psychologists. Two (2) members shall be certified by the board as certified psychologists or psychological associates. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business regulated.

(2) Licensed psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists licensed under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists licensed according to the provisions

of this chapter and each nominee shall be a psychologist licensed according to the provisions of this chapter. Each psychologist member shall be ***a resident*** [~~an elector~~] of this state and shall have engaged in the practice or teaching of psychology as a licensed psychologist for at least three (3) years in this state.

(3) Certified psychologist members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists and psychological associates certified under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists and psychological associates certified according to the provisions of this chapter. Each nominee shall be a resident of this state, certified according to the provisions of this chapter, and shall have engaged in the practice or teaching of psychology as a certified psychologist or psychological associate for at least three (3) years in this state.

(4) The term of each board member shall be four (4) years and until a successor is appointed and qualified, except that in ***1992*** [~~1986~~], one (1) ***licensed*** [~~certified~~] member shall be appointed for a term of two (2) years and one (1) ***licensed*** [~~certified~~] member shall be appointed for a term of four (4) years. ***After the effective date of this Act, the seven (7) appointed board members currently serving shall serve as board members until their respective terms expire.*** No member shall serve more than two (2) consecutive full terms. The Governor shall fill any vacancy occurring in the board in the manner prescribed in subsection (2) of this section. Upon recommendation by a majority of the board members and after notice and a hearing, the Governor shall remove any member for incompetence, neglect of duty, or malfeasance in office.

(5) ***Five (5)*** [~~Four (4)~~] members of the board shall constitute a quorum. Each member shall receive one hundred dollars ($100) per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. Annually the board shall elect one (1) of its licensed members as chairman. No person shall serve more than two (2) consecutive ***full*** terms as chairman. The board shall meet at least twice annually and at [~~such~~] other times as it determines ***necessary***. Special meetings may be called by the chairman and shall be called upon the written request of two (2) members.

Section 4. KRS 319.032 is amended to read as follows:

(1) The board shall ***promulgate*** [~~adopt~~] administrative regulations:

(a)[~~(1)~~] Establishing requirements, standards, and tests to determine the moral, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses or certificates; ***defining*** [~~define~~] areas of specialty within the field of psychology; and ***preparing or selecting and administering*** [~~prepare or select and administer~~] examinations on general psychological knowledge and on the appropriate psychological specialty or specialities of the applicant. Neither certified psychologists nor psychological associates may participate in the examination of applicants for licensures;

(b)[~~(2)~~] Establishing and defining the scope of practice within each area of speciality within the field of psychology;

(c)[~~(3)~~] Setting the requirements for issuing, denying, suspending, ***restricting,*** and revoking licenses and certificates, and placing licensees and certificate holders on probation;

(d) Establishing requirements for continuing education as a condition for renewal of licenses and certificates;

(e)[~~(4)~~] Establishing and collecting reasonable fees for directories, [~~for~~] transcribing, [~~and~~] transferring ***of*** records, and other services;

(f)[~~(5)~~] Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board. Every [~~such~~] hearing officer shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript or mechanical recording of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions, [~~and~~] objections, and all rulings of the hearing officer;

(g)[~~(6)~~] Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure or certification[~~. An individual whose qualifications meet or exceed the standards for licensure in Kentucky may be licensed without examination. An individual whose qualifications meet or exceed the standards for certification in Kentucky may be certified without examination~~];

(h)[~~(7)~~] Employing personnel, including hearing officers which it considers necessary for the performance of its functions, determining the duties of [~~such~~] personnel, and compensating them within the limits of funds available to the board;

[~~(8) The board, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the board, inspectors and for members of the staff exempted from classified service of the state by KRS 18A.115;~~]

(i)[~~(9)~~] Investigating complaints or suspected violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this chapter, the board shall have the authority to administer oaths, receive evidence, interview persons, ***issue subpoenas,*** and require the productions of books, papers, documents, or other evidence;

(j)[~~(10)~~] Governing the supervision of certified psychologists [~~and candidates for licensure,~~] and [~~regulations governing~~] the supervision and employment of psychological associates ***and candidates for licensure***; ***and***

[~~(11) Providing for the performance of all other functions necessary to carry out the provisions of law and the administrative regulations adopted by the board relating to psychologists and the practice of psychology;~~]

(k)[~~(12)~~] Notwithstanding the fee schedules specified in this chapter, ***increasing or decreasing*** [~~the board may, for good cause, increase or decrease~~] fees as it deems appropriate; [~~and~~]

(2)[~~(13)~~] The board shall have the authority to ***promulgate*** [~~adopt~~] such other administrative regulations as it deems necessary for the proper administration of this chapter.

(3) The board, at its discretion, may use funds as necessary to purchase liability insurance for members and executive officers of the board, inspectors, examiners, investigators, and staff members exempt from classificated service of the state by KRS 18.115.

Section 5. KRS 319.050 is amended to read as follows:

(1) Before granting a license to practice psychology and to use the title "***Licensed*** Psychologist" the board shall require the applicant to pass an examination in psychology ***and to fulfill all requirements for supervised experience.***

(2) The applicant shall:

(a) Pay a fee not to exceed ***three*** [~~two~~] hundred dollars ***($300)*** [~~($200)~~];

(b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States, if ***the*** [~~such~~] educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Have had at least ***two (2) years*** [~~one (1) year~~] of supervised professional experience satisfactory to the board***, one (1) year of which shall be postdoctoral.***

(3)[~~(2)~~] Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of ***supervision and*** temporary licensure established by the board. ***During this period of supervision, the applicant for licensure may not supervise certified psychologists, psychological associates, other applicants for licensure, or temporarily licensed persons, nor shall he engage in an independent practice, except under the employment of his supervising psychologist. Upon certification to the board of completion of the one (1) full year of supervision satisfactory to the board, the applicant shall be examined in the practice of psychology.*** [~~No applicant shall supervise certified psychologists or psychological associates until he successfully completes all licensure requirements.~~]

(4)[~~(3)~~] The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(5) Upon successful completion of the examination process, the applicant may use the title "Licensed Psychologist."

(6)[~~(4)~~] Licensed psychologists may function ***independently*** without supervision and may employ and supervise certified psychologists and psychological associates. Licensed psychologists may supervise no more than a total of six (6) certified psychologists***,*** [~~or~~] psychological associates***, or applicants for licensure or certification*** at one time.

(7)[~~(5)~~] The board shall after examination in a specialty area issue a license to practice psychology. ***The designation "health service provider" shall be made on the license of those psychologists who perform activities which include the delivery or supervision of direct health-care services to individual or groups who are intended beneficiaries of such services. The designation "health service provider" shall be given to those psychologists fully licensed in the specialty areas of clinical, counseling, or school psychology.***

Section 6. KRS 319.056 is amended to read as follows:

(1) A person currently authorized to use the title "certified psychologist with autonomous functioning" may continue to function without supervision in the area specified on the certificate, unless the board revokes his certificate pursuant to KRS 319.082.

(2) ***A certified psychologist who has been granted autonomous functioning may function without supervision in areas in which he is certified. He shall not supervise certified psychologists or psychological associates.***

(3) A person currently authorized to use the title "certified psychologist" may continue to function under the supervision of a licensed psychologist in the area specified on the certificate, unless the board revokes his certificate pursuant to KRS 319.082.

(4) A certified psychologist may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist approved by the board, and shall not employ or supervise other certified psychologists or psychological associates.

Section 7. KRS 319.064 is amended to read as follows:

(1) For an individual with a master's degree in psychology [~~whose application is received after January 1, 1988~~], the board shall issue a certificate to perform certain functions within the practice of psychology and to use the title "psychological associate" to any applicant who:

(a) Pays a fee not to exceed ***three*** [~~two~~] hundred dollars ***($300)*** [~~($200)~~];

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States, if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) Any psychological associate certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist ***approved by the board. The psychological associate*** [~~and~~] shall not practice independently, except under the employment and supervision of ***the board approved*** [~~a~~] licensed psychologist. A psychological associate shall not represent himself as a licensed or certified psychologist. A psychological associate shall not employ or supervise certified psychologists or psychological associates.

Section 8. KRS 319.082 is amended to read as follows:

(1) The board may suspend***,*** [~~or~~] revoke***, or*** [~~any license or certificate or may~~] refuse to issue or renew a license or certificate, or may accept an assurance of voluntary compliance, ***restrict,*** or [~~may~~] place a licensee or certificate holder on probation, upon proof that the licensee or certificate holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license or certificate, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope of practice defined in the speciality area of examination;

(l) Failed to provide adequate supervision for certified psychologists, psychological associates, applicants for licensure ***or certification***, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient, [~~or~~] client***, student, or supervisee***; [~~or~~]

(o) Improperly divulged confidential information***;***

(p) Exercised undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;

(q) Showed an inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition; or

(r) Failed to comply with the requirements of the board for continuing education.

(2) No unlawful act or violation of any provision of this chapter by any certificate holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license, unless the board finds that the licensed psychologist had knowledge of it.

(3) Three (3) years from the date of a revocation, any person whose license or certificate has been revoked may petition the board for reinstatement. The board shall investigate his petition and may reinstate his license or certificate upon finding that the former holder has complied with ***the provisions of this chapter and*** [~~any~~

~~reasonable~~] administrative regulations ***promulgated*** [~~prescribed~~] by the board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.

(4) The board may, at its own discretion, reconsider, modify, or reverse its probations, suspensions, revocations, ***restrictions,*** or refusals to issue or renew licenses or certificates at any time.

Section 9. KRS 319.092 is amended to read as follows:

(1) In every proceeding for probation, suspension, or revocation of a license or certificate, the licensee or certificate holder shall be furnished with written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place thereof at least twenty (20) days prior to the hearing. The notice is sufficient if served on the licensee or certificate holder personally or by certified mail, return receipt requested, to his last known address. The nonappearance of the licensee or certificate holder shall not prevent a hearing. The board or a hearing officer appointed by the board shall conduct the hearing. The licensee or certificate holder shall have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges. If the licensee or certificate holder fails to respond to the complaint at or before the time of the hearing thereon, the board may take the allegations set forth in the complaint as confessed.

(2) The board or the hearing officer shall have the authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths and schedule hearings. All decisions revoking or suspending a license or certificate or placing a licensee or certificate holder on probation shall be made by the board.

(3) ***If, after a hearing, a majority of the board find that a psychologist has violated any provision of this chapter, the board may:***

(a) Revoke or suspend the license or certificate;

(b) Impose a monetary penalty not to exceed two thousand dollars ($2,000) per violation;

(c) Revoke or suspend the license or certificate or impose a monetary penalty, but suspend enforcement thereof by placing the psychologist on probation, which shall be revocable if the board finds the conditions of the probation order are not being followed by the psychologist;

(d) Require the psychologist, as a condition of probation, to submit to care, counseling, or treatment by a professional designated by the board, or require the psychologist to be supervised by a licensed psychologist designated by the board. The expense of this action shall be borne by the psychologist on probation;

(e) Modify the conditions of the probation, with good cause, and may include among them any reasonable condition for the purpose of the protection of the public, or for the purpose of the rehabilitation of the probationer, or both;

(f) Require restitution; and

(g) Assess the costs of the disciplinary proceeding.

(4) Orders of the board suspending or revoking a license or certificate or placing a licensee or certificate holder on probation shall become effective ***immediately*** [~~thirty (30) days~~] after written notice is served on the licensee or certificate holder[~~, unless an earlier date is necessary to protect the public health, welfare and safety in which case the order shall become effective as of the date specified~~] and the licensee or certificate holder shall not, after notice of same, engage or continue to engage in the practice of psychology unless the board's order is revoked or modified by a final order or judgment.

(5) The board shall make public its final order in all disciplinary actions.

(6)[~~(4)~~] Any person aggrieved by an order of the board may within thirty (30) days after notice thereof appeal thereupon to the Franklin Circuit Court. The court shall decide the appeal upon the certified record and no new or additional evidence shall be heard or considered by the court.

(7)[~~(5)~~] A party aggrieved by a final order of the circuit court may appeal to the Court of Appeals as in a civil action.

Section 10. KRS 319.118 is amended to read as follows:

(1) Members of the board, its agents and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

(2) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, the board ***may*** [~~is hereby authorized to~~] institute and maintain actions to restrain or enjoin any violation of this chapter, [~~or the~~] rules and ***administrative*** regulations***, or order*** of the board.

(3) ***The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.***

(4) The city, county***,*** [~~and~~] Commonwealth's attorney, and the Attorney General, shall within their respective jurisdictions and within their legal discretion represent the board, its agents and employees, in the enforcement of the provisions of this chapter and the rules and ***administrative*** regulations of the board.

Section 11. KRS 319.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than six (6) months, or by a fine of not more than five hundred dollars ($500), or by both [~~such~~] fine and imprisonment, and each violation shall be deemed a separate offense.

(2) Either the Attorney General or the appropriate Commonwealth's or county attorney shall have the authority to prosecute violations of KRS 319.005 to 319.111.

Section 12. The following KRS sections are repealed:

319.058 Issuance of "certified psychologist" certificate.

319.062 "Certified psychologist with autonomous functioning."

HB 340, AN ACT relating to the practice of social work.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of ***KRS Chapter 335*** [~~KRS 335.010 to 335.160 and 335.990~~], and may ***promulgate, pursuant to the provisions of KRS Chapter 13A, administrative*** [~~adopt rules and~~] regulations consistent with ***the*** [~~its~~] provisions ***of KRS Chapter 335***, including a code of ethical practice for certified social workers***, licensees certified for private practice,*** and social workers.

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation***,*** or suspension of a license, shall adopt ***administrative regulations*** [~~rules~~] for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of ***KRS Chapter 335*** [~~KRS 335.010 to 335.160 and 335.990~~], or ***any administrative*** [~~any rule or~~] regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board shall maintain a register of certified social workers, social workers, and licensees certified for private practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

(8) The board shall set by ***administrative*** regulation a fee schedule for examinations. ***The fees shall***[~~, said fees to~~] be sufficient to cover the cost of preparation, administration***,*** and grading of the examinations[~~, but not to exceed seventy-five dollars ($75) for any one examination~~].

HB 494, AN ACT relating to the registration of professional geologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 322A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Section 1 to 11 of this Act, unless the context requires otherwise:

(1) "Geology" means the science which treats the earth as a whole; the investigation, analysis, classification, and location of the rocks and other materials which compose the earth's crust; the study of minerals, gases, and liquids composing and contained within the earth's crust; and the study of geologic materials and processes;

(2) "Geologist" means a person who is qualified by reason of his knowledge of the principles of geology, acquired by professional education and practical experience, to engage in the public practice of geology;

(3) "Public practice of geology" means the performance of service to the public in connection with the geological description, location, or evaluation of earth materials, liquids, and gases and the natural processes acting upon them. The "public practice of geology" does not include:

(a) The practice of engineering or land surveying as defined in KRS Chapter 322; or

(b) Design recommendations, design, or plans related to the practice of engineering or land surveying as defined in KRS Chapter 322.

(4) "Registered Geologist" means a person who is registered as a geologist under the provisions of Sections 1 to 11 of this Act;

(5) "Qualified geologist" means a person who possesses all the qualifications specified in Section 4 of this Act for registration except that he is not now registered in Kentucky; and

(6) "Board" means the Kentucky Board of Registration for Professional Geologists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) There is created and established the Board of Registration for Professional Geologists, which shall administer the provisions of Sections 1 to 11 of this Act. All board members shall be residents of Kentucky and be appointed by the Governor. The initial board shall consist of four (4) qualified geologists, one (1) of whom shall be the state geologist, and one (1) member representing the public at large. With the exception of the member representing the public at large, all subsequent board members shall be registered geologists. The initial terms of appointment, which shall be made within ninety (90) days of the effective date of this Act, shall consist of one (1) member being appointed for a term of one (1) year, one (1) member being appointed for a term of two (2) years, one (1) member being appointed for a term of three (3) years, and one (1) member being appointed for a term of four (4) years. The fifth member shall always be the state geologist. Thereafter, the term of the members of the board shall always be for four (4) years and until their successors are appointed and qualified.

(2) Board members may succeed themselves. The Governor may remove any member from the board for misconduct, incompetence, neglect of duty, or for any good and sufficient cause, in the manner prescribed by law. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor.

(3) Three (3) members of the board shall constitute a quorum.

(4) There shall be no liability on the part of and no cause of action of any nature shall arise against the board, its agents, or its employees, for any action taken in the performance of the board's powers and duties under Sections 1 to 11 of this Act.

(5) The board shall elect from its members a chair and secretary each year.

(6) At least thirty (30) days prior to the appointment date each year, the Governor shall receive a list of not more than three (3) nominations for board members from a joint committee of the Geological Society of Kentucky and the Kentucky Section of the American Institute of Professional Geologists. The appointed members on the board shall be selected from the list submitted to the Governor by the joint committee.

(7) While discharging duties associated with the board, including meetings of the board and its committees and necessary travel, each member shall receive compensation as established by administrative regulation of the board promulgated in accordance with KRS Chapter 13A. Members of the board shall be reimbursed for costs for actual travel, and for incidental, clerical and all other actual and necessary expenses incurred in the discharge of official duties associated with the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet at least once each calendar year and at other times deemed necessary by the chair or a quorum of the board upon being given ten (10) days' notice.

(2) A roster showing the names and places of business of all registered professional geologists shall be published by the secretary of the board each year. Copies of this roster shall be made available to each person registered, placed on file with the secretary of the board, and furnished to the public upon request.

(3) The board shall pass upon the qualifications of applicants for registration.

(4) The board shall require from applicants for registration evidence of their qualifications and shall judge each applicant on evidence of the applicant's professional competency and integrity in accordance with administrative regulations promulgated by the board.

(5) The board may promulgate administrative regulations consistent with the provisions of Sections 1 to 11 of this Act appropriate and necessary to the conduct of its responsibilities and duties.

(6) The board shall adopt by administrative regulation a code of professional conduct a copy of which shall be distributed to every registered geologist. Mailing of a copy of this code to persons listed in the roster maintained under subsection (2) of this section shall constitute due notice to all registrants. The board may revise and amend the code of ethics from time to time, subject to the consent of the majority of the registrants, and shall notify each registrant in writing of any revisions or amendments.

(7) The board may take appropriate disciplinary action as provided for in Section 10 of this Act. Action shall be taken only after written notice has been given the person concerned and the person is afforded an opportunity of a hearing before the board.

(8) Any person or organization may prefer charges of fraud, deceit, gross negligence, or misconduct against any registrant. The charges shall be in writing, shall be sworn to by the person or officer of the organization making them, and shall then be filed with the board.

(9) The board may subpoena witnesses and compel their attendance and may also require submission of books, papers, documents, or other pertinent data, in any disciplinary matters, or in any case when a violation of Section 10 of this Act or other laws or regulations of the board is alleged. Upon failure or refusal to comply with any order of the board, or upon failure to honor its subpoena, the board may apply to the Franklin Circuit Court to enforce compliance.

(10) Any person who feels aggrieved by any action of the board in refusing or revoking their certificate of registration may appeal to the Franklin Circuit Court. After a review of the record, that court shall sustain or reverse in whole or in part, the action of the board.

(11) The Attorney General or any assistants designated by him shall act as legal advisers to the board and render legal assistance as the board may from time to time require. The board may employ private counsel at its discretion. The cost of private counsel shall be paid exclusively from funds of the board.

(12) The board shall establish and maintain necessary offices within this Commonwealth, employ personnel as necessary, and prescribe their duties and compensation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) In order to qualify for registration, an applicant shall meet all of the following requirements:

(a) Successful completion of a minimum of thirty (30) semester hours or forty-five (45) quarter hours of course work in geology, culminating in a baccalaureate or advanced degree in geology, geophysics, geochemistry, or geological/geotechnical engineering from an accredited college or university. At the discretion of the board, courses dealing with applied geological science that are given under the auspices of an academic department other than geology may be considered toward the fulfillment of this requirement. During the twelve (12) month period beginning one hundred and eighty (180) days after the effective date

of this Act, the board may waive the education requirements for persons who derive their livelihood from the public practice of geology who do not meet the education requirements, but who can demonstrate to the satisfaction of the board their competency and who have at least eight (8) years of experience in geology.

(b) Five (5) years of experience in professional geologic work. Professional geologic work may include the instruction of geology at the college or university level, the geological research of persons at the college or university level, geological work performed while in the employment of the United States, state, or local governments. In counting years of experience, the board may give one (1) year of credit each for a master's degree or doctoral degree in geology, geophysics, geochemistry or geological/geotechnical engineering; and

(c) A passing score on an examination required by the board that has been designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of geology.

(2) During the twelve (12) month period beginning one hundred and eighty (180) days after the effective date of this Act, the board shall waive the examination requirement for applicants qualified by education and experience as provided in subsection (1) of this section.

(3) Credit toward the experience and education requirements shall be subject to evaluation and approval by the board.

(4) Documentation of competency and integrity may be required by the board.

(5) Upon application, registration may be provided to those registered or certified as geologists in another state having standards at least equal to those provided in this section. During a twelve (12) month period beginning one hundred and eighty (180) days after the effective date of this Act, registration may be provided to those holding a valid certification from the American Institute of Professional Geologists or the Division of Professional Affairs of the American Association of Petroleum Geologists.

SECTION 5. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for registration shall pay a nonrefundable fee established by regulation of the board. If the board declines to issue registration to any applicant, the initial fee paid by the applicant shall be retained as an application fee. All fees paid to and collected by the board under the provisions of this section and Section 7 of this Act shall be deposited in a revolving trust and agency account under the jurisdiction of the board. The officers or employees of the board who shall be designated to collect and disburse funds represented by these fees shall be required to execute a bond, with corporate surety, in an amount to be determined by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) All certificates of registration shall expire annually at a time and date designated by the board. The board shall notify every person registered under Sections 1 to 11 of this Act of the date of expiration of his certificate and the amount of the renewal fee which shall be fixed by the board.

(2) When the renewal fee is not paid within ninety (90) days after the expiration date, that individual's certificate of registration shall be suspended and the name shall be deleted from the roster of the board until the renewal fee is paid.

(3) When the renewal fee is not paid for two (2) annual periods, that individual's certificate of registration shall be revoked and shall not be renewed. In the event that an individual whose registration has been revoked desires to be again registered, an application shall be submitted to the board and the individual shall be considered as a new applicant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a certificate of registration, upon payment of the registration fee, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements for registration under Section 4 of this Act. Certificates of registration shall show the full name of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named thereon is entitled to all the rights and privileges of a registered geologist while the certificate of registration remains in force.

(2) Each registrant may, upon registration, obtain and use a seal or stamp of registration of the design authorized by the board, containing the registrant's name and number and the legend "Registered Professional Geologist."

(3) A replacement certificate of registration may be issued, subject to the administrative regulations of the board, to replace any certificate lost, destroyed or mutilated.

(4) No person shall affix his signature or stamp, seal, or certify any reports or other documents after the certificate of registration of the registrant named thereon has been suspended or revoked, unless the certificate of registration has been renewed or reissued.

SECTION 8. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

The following persons shall be exempt from the requirements of registration under Sections 1 to 11 of this Act:

(1) Officers and employees of the United States, state or local governments while engaged in providing geological services for their employers;

(2) Persons engaged solely in geologic research or the instruction of geology;

(3) Professional engineers registered in this Commonwealth under KRS Chapter 322 who apply geology to the practice of engineering; or

(4) Persons not engaged in the public practice of geology.

SECTION 9. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) With the exception of persons exempted under Section 8 of this Act, it shall be unlawful for any person other than a registered geologist or a subordinate under the direction of a registered geologist to prepare any geologic reports or documents that are required by statute or administrative regulation.

(2) No person shall engage in the public practice of geology, or offer to publicly practice geology, in this Commonwealth, as defined in Section 1 of this Act, or to use or otherwise assume, or advertise in any way any title or description tending to convey the impression that the person is a registered geologist, unless the person has been duly registered under the provisions of Sections 1 to 11 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

The board may suspend any registrant, refuse to renew or revoke the certificate of any registrant, reprimand any registrant, or place any registrant on probation, when the registrant is found guilty by the board of:

(1) Fraud or deceit in obtaining a license;

(2) Gross negligence, incompetence, or misconduct in the practice of geology;

(3) Conviction by a court of law of a felony or a crime involving moral turpitude;

(4) Violation of the code of ethics promulgated by the board; or

(5) The commission of any unlawful act as set forth in Section 11 of this Act;

SECTION 11. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

Any person who commits any of the following acts shall be guilty of a Class B misdemeanor:

(1) Publicly practicing, or offering to publicly practice geology for others in this Commonwealth without being registered in accordance with the provisions of Sections 1 to 11 of this Act;

(2) Presenting or attempting to use as his own the certificate of registration or the seal of another;

(3) Giving any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration; or

(4) Falsely impersonating any other registrant of like or different name;

(5) Attempting to use an expired or revoked certificate of registration to practice at any time during a period the board has suspended or revoked the certificate of registration.

HJR 55, A JOINT RESOLUTION directing the creation of a task force to review the registration law relating to professional engineers and land surveyors.

WHEREAS, a professional engineer is a person who is qualified by reason of his knowledge of the principles of engineering acquired by professional education and practical experience, and has passed a written examination which demonstrates his ability and qualification to practice engineering; and

WHEREAS, a professional land surveyor is a person engaged in the practice of land surveying who is qualified by reason of his knowledge of the principles of land surveying acquired by practical experience and has passed a written examination which demonstrates his ability and qualification to practice land surveying; and

WHEREAS, the state of Kentucky has registered in excess of ***17,000*** engineers and ***3000*** land surveyors since the enactment of KRS Chapter 322 in 1938; and

WHEREAS, with the new technology necessary to compete in the world marketplace, engineers and surveyors are obligated to review and upgrade the knowledge and skills of their profession as new technology dictates; and

WHEREAS, to ensure the protection of the public, the registration law and the code of ethics as it relates to professional engineers and land surveyors needs a comprehensive review; and

WHEREAS, to ensure the examination of these issues and to receive information from organizations representing these registered professionals;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky State Board of Registration for Professional Engineers and Land Surveyors is directed to create a task force to review the current registration law (KRS 322) and the Code of Professional Practice and Conduct for Professional Engineers and Land Surveyors during the 1992-93 interim and make any necessary recommendations relating to the Registration Law to the 1994 General Assembly.

Section 2. That the task force shall review the following issues:

(1) Examination process;

(2) Regulation of engineering firms;

(3) Industry exemption;

(4) Minimum education and experience requirements;

(5) Continuing education;

(6) Hearings, disciplinary action, and penalties;

(7) Use of the word "engineer";

(8) Condominium law conflict;

(9) Review and revision of rules, regulations, code of ethics, bylaws, and other issues relating to KRS Chapter 322 as they may arise.

Section 3. That the task force shall consist of eleven (11) members appointed by their respective organizations, as follows:

(1) Two representatives of the Kentucky State Board of Registration for Professional Engineers and Land Surveyors.

(2) Two representatives of the Kentucky Society of Professional Engineers.

(3) Two representatives of the Consulting Engineers Council of Kentucky.

(4) Two representatives of the Kentucky Association of Transportation Engineers.

(5) Two representatives of the Kentucky Association of Professional Surveyors.

(6) One member appointed by the Legislative Research Commission.

Section 4. That the chairman or co-chairmen of the task force shall be elected from the task force membership.

Section 5. That the task force shall meet at least six times annually and at such other times as it deems necessary with the first meeting to be held in June of 1992.

Section 6. That the task force shall report and make its recommendations to the Legislative Research Commission no later than September 1, 1993.

Section 7. That vacancies on the task force shall be filled in the same manner as the original appointment occurred.

Section 8. That the members of the task force shall serve without pay or expense reimbursement.

SB 71, AN ACT relating to trade practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The use of a document mailed to members of the general public, the purpose of which is to market a product, when the document purports to inform the recipient that he has won a prize, without prominently and conspicuously communicating by clear and understandable language in the document the exclusions or conditions to receiving the prize, shall constitute an unfair trade practice and is prohibited.

(2) Remedies for violation of the provisions of subsection (1) of this section shall be available as provided in KRS 365.070.

The Committee on Judiciary reported **HB 299**, with Committee Substitute attached thereto, **HB 306**, with Committee Substitute attached thereto, and **HB 322** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 299, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 434.445 is amended to read as follows:

(1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing sounds on phonograph records, discs, tapes, films or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.

(2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is to be transferred without the consent of the performer, shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both. Each individual transfer or manufacture of such recorded article shall constitute a separate offense.

(3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or

resale, or sells or resells, distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall***, for a first offense,*** be fined ***three (3) times the original retail price of the genuine material, but*** not ***less*** [~~more~~] than five hundred dollars ($500), or imprisoned for not less than ninety (90) days nor more than twelve (12) months, or both***, and for each subsequent offense be guilty of a Class D felony***. Possession of five (5) or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section. [~~Each sale or resale of any such article shall constitute a separate offense.~~]

(4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall***, for a first offense,*** be fined ***three (3) times the original retail price of the genuine material, but*** no ***less*** [~~more~~] than five hundred dollars ($500)***, and for each subsequent offense be guilty of a Class D felony***. [~~Each sale or distribution of any such article shall constitute a separate offense.~~]

(5) This section does not apply to any person who transfers or causes to be transferred any such sounds intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

(6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the state police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

The Committee Substitute to **HB 299** is as follows:

HB 299, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 434.445 is amended to read as follows:

(1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other device used for reproducing sounds on phonograph records, discs, tapes, films or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.

(2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is ***or distributes, causes the distribution of, or possesses for one (1) or more of these purposes,*** to be transferred without the consent of the performer, shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both. Each individual transfer or manufacture of such recorded article shall constitute a separate offense. ***For purposes of this section, a person who is authorized to maintain custody and control over business records that reflect whether or not the owner of the live performance consented to having the live performance recorded or fixed is a proper witness in a proceeding regarding the issue of consent.***

(3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or resale, or sells or resells, ***or as a rentor, rents or causes the rental of, or*** distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall [~~be fined not more than five hundred dollars ($500), or imprisoned for not less than ninety (90) days nor more than~~

~~twelve (12) months, or both~~]***, be guilty of a Class D felony***. Possession of five (5) or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section. Each sale or resale of any such article shall constitute a separate offense.

(4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film or other article ***now known or later developed*** on which sounds***, images, or both sounds and images*** have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall [~~be fined no more than five hundred dollars ($500)~~] ***be guilty of a Class D felony***. Each sale or distribution of any such article shall constitute a separate offense.

(5) This section does not apply to any person who transfers or causes to be transferred any such sounds ***or images*** intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

(6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the state police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

HB 306, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "crewmember" means any person assigned to perform duty in an aircraft during flight time.

(2) It is unlawful for any person to operate, attempt to operate, or act, or attempt to act, as a crewmember of any aircraft in this Commonwealth:

(a) Within eight (8) hours after the consumption of any alcoholic beverage; or

(b) While under the influence of alcohol; or

(c) While using any substance that affects his faculties in any way contrary to safety; or

(d) With four one-hundredths of one percent (0.04%) or more by weight of alcohol in his blood at the time of the alleged violation.

(3) Any person who operates or attempts to operate or acts or attempts to act as a crewmember of any aircraft in this Commonwealth is considered to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which affects his faculties in any way contrary to safety, if arrested for a violation of this section.

(4) Testing for alcohol concentration or other substances shall be done in the manner prescribed in KRS Chapter 189A, and the defendant shall have the same rights as provided by KRS Chapter 189A with regard to refusing the test.

(5) Any person who violates the provisions of subsection (2) of this section shall be punished as provided in KRS 189A.010. Any person who refuses a test offered pursuant to subsection (3) shall be fined two hundred dollars ($200) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Conviction for a violation of subsection (3) shall not bar a conviction for a violation of subsection (3). Conviction for a violation of subsection (3) shall not bar a conviction for a violation of subsection (2).

(6) The filing of charges, results of chemical testing, and results of the trial or other subsequent proceedings shall be reported to the Federal Aviation Administration by the law enforcement agency making the arrest within thirty (30) days of the date of arrest.

The Committee Substitute to **HB 306** is as follows:

HB 306, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "crewmember" means any person performing or assigned to perform any duty in a civil aircraft during the time which the aircraft is undergoing preflight inspection, boarding, or carrying passengers or crew, or any time the aircraft is under power or in flight.

(2) It is unlawful for any person to operate, attempt to operate, or act, or attempt to act, as a crewmember of any civil aircraft in this Commonwealth:

(a) Within eight (8) hours after the consumption of any alcoholic beverage; or

(b) While under the influence of alcohol; or

(c) While using any substance that affects his faculties in any way contrary to safety; or

(d) With four one-hundredths of one percent (0.04%) or more by weight of alcohol in his blood.

(3) Any person who operates or attempts to operate or acts or attempts to act as a crewmember of any aircraft in this Commonwealth is considered to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which affects his faculties in any way contrary to safety, if arrested for a violation of this section.

(4) Testing for alcohol concentration or other substances shall be done in the manner prescribed in KRS Chapter 189A, and the defendant shall have the same rights as provided by KRS Chapter 189A with regard to refusing the test.

(5) Any person who violates the provisions of subsection (2) of this section shall be punished as provided in KRS 189A.010. Any person who refuses a test offered pursuant to subsection (3) shall be fined two hundred dollars ($200) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Conviction for a violation of subsection (2) shall not bar a conviction for refusal to take tests for alcohol or other substances. Conviction for refusal to take tests for violation of alcohol or other substances shall not bar a conviction for a violation of subsection (2).

(6) The filing of charges, results of chemical testing, and results of the trial or other subsequent proceedings shall be reported to the division, branch, or office of the Federal Aviation Administration having jurisdiction for regulation and certification by the law enforcement agency making the arrest within thirty (30) days of the date of arrest. Law enforcement agencies possessing evidence of a violation of this section shall present the evidence for use by the Federal Aviation Administration as well as for prosecution by the state under this section.

HB 322, AN ACT relating to statutory actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.145 is amended to read as follows:

(1) As used in this section "consortium" means the right to the services, assistance, aid, society, companionship, and conjugal relationship between husband and wife, or wife and husband; ***or the right to the services, assistance, aid, comfort, society, supervision, and companionship between child and parent, or parent and child.***

(2) [~~Either~~] A wife, [~~or~~] husband***, parent, or child*** may recover damages against a third person for loss of consortium[~~;~~] resulting from a negligent or wrongful act of such third person.

(3) A claim under this section shall be commenced within the same period of time prescribed for the underlying cause of action for recovery of damages by or on behalf of the injured or deceased spouse, parent, or child.

(4) The provisions of this section which relate to actions by a parent or child shall apply to all tort actions in which money damages have not been adjudged as of the effective date of this Act.

The Committee on Agriculture and Small Business reported **HB 232**, **HB 498**, **HCR 26** and **HCR 52** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 232, AN ACT relating to soybeans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.515 is amended to read as follows:

As used in KRS 247.510 to 247.595 unless the context otherwise requires:

(1) "Commissioner" means the Commissioner of Agriculture;

(2) "Board" means the State Board of Agriculture;

(3) "Producer" means every person who produces soybeans and thereafter causes the same to be marketed;

(4) "New producer" means a producer who was not engaged in the business of producing soybeans at the time a referendum was conducted in accordance with the provisions of KRS 247.510 to 247.595;

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity;

(6) "Marketing year" means from July 1 to June 30 of the following year; and

(7) "Purchaser" means any person, public or private corporation, federal commodity credit corporation, association, or partnership buying, accepting for shipment, or otherwise acquiring the property in or to soybeans from a producer, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer, when the actual or constructive possession of such soybeans is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim.

(8) "Net market price" means the sales price or other value received by a producer for soybeans after adjustments have been made for any premium or discount based on grading or quality factors.

(9) "Promotion board" means the Kentucky Soybean Promotion Board.

Section 2. KRS 247.552 is amended to read as follows:

There is hereby imposed and levied an assessment at the rate of ***one-fourth of one percent (0.25%) of the net market price*** [~~one cent (1)~~] per bushel on all soybeans marketed within the Commonwealth, such assessment to be deducted from the amount paid the producer at the first point of sale. The question of the levy of the [~~one cent (1) per bushel~~] assessment on soybeans, provided for herein, may be referred to a vote of the soybean producers of the state by the filing of petitions with the Kentucky Soybean Association containing signatures of Kentucky soybean producers equal in number to twenty percent (20%) of all soybean producers in the state as recorded in the latest United States census of agriculture. If such petitions are filed and at the referendum election a majority of the Kentucky soybean producers voting on the question vote against the levy [~~of the one cent (1) per bushel~~] on soybeans, the assessment shall not thereafter be levied. Only those soybean producers who produced soybeans in Kentucky in the crop year immediately preceding the referendum shall be eligible to vote in the election.

SECTION 3. A NEW SECTION OF KRS 247.552 TO KRS 247.555 IS CREATED TO READ AS FOLLOWS:

A first purchaser who purchases soybeans pursuant to a contract or otherwise with the intent of utilizing the soybeans for seed stock shall be responsible for remitting the assessment due on the soybeans as required by KRS 247.570. The assessment shall be collected from the producer at the time of final settlement for the soybeans. The assessment on soybeans marketed for use as seed stock shall be based upon one-fourth of one percent (0.25%) of the posted county price for soybeans on the day of settlement as posted at the local Agricultural Stabilization and Conservation Service (ASCS) office for the county in which the first purchaser is located.

Section 4. KRS 247.570 is amended to read as follows:

The assessment so deducted shall, on or before the fifteenth day of the month following the end of the month in which such soybeans are sold to the purchaser, be remitted by ***the*** [~~such~~] purchaser to the ***promotion board*** [~~Fund Utilization Committee~~]. The books and records of all ***the*** [~~such~~] purchasers of soybeans shall at all times be open for inspection by the ***promotion board's collection and compliance officer or the*** Commissioner of Agriculture or his duly authorized agents during regular business hours.

SECTION 5. A NEW SECTION OF KRS 247.570 TO KRS 247.576 IS CREATED TO READ AS FOLLOWS:

There is hereby established a promotion board of four (4) members appointed by the Kentucky Soybean Association; two (2) members appointed by the Kentucky Farm Bureau Federation; and one (1) member appointed by the Commissioner of Agriculture. The appointments shall be for terms of two (2) fiscal years, a fiscal year running from July 1 to the following June 30, and each appointing body shall promptly file with the promotion board the names of its respective appointees.

Section 6. KRS 247.576 is amended to read as follows:

The ***promotion board may*** [~~Fund Utilization Committee shall~~] enter into an agreement with the Federal Commodity Credit Corporation to collect the specified assessment on all soybeans pledged as collateral for a Commodity Credit Corporation price support loan or purchase by the commodity credit corporation under its loan or purchase programs.

Section 7. KRS 247.580 is amended to read as follows:

The [~~Such~~] funds, including donations from individuals, concerns, corporations and grants from the state or governmental agencies, shall be used ***by the promotion board*** for the purpose of promoting and stimulating, by research, market development, and education, the increased use and sale, domestic and foreign, of soybeans and soybean products. ***These funds shall not be used for lobbying as defined in KRS 6.250.*** [~~The duly certified association receiving the assessment funds shall, upon the advice and consent of the fund utilization committee, use and disburse the same as follows:~~

~~(1) Such association may first refund to itself therefrom the costs and expenses incurred in the conduct of the referendum;~~

~~(2)~~] ***The promotion board*** [~~Such association~~] may spend or disburse the necessary funds therefrom for administrative costs and expenses, but no more than ***fifteen percent (15%)*** [~~ten percent (10%)~~] of the funds collected in any marketing year shall be so utilized[~~; and~~

~~(3) From the balance remaining no less than fifty percent (50%) thereof shall be used for market development work by means of grants or contracts with any nationally recognized, soybean-grower controlled or operated group or organization, such as the American Soybean Association Market Development Foundation, Hudson, Iowa~~].

Section 8. KRS 247.585 is amended to read as follows:

Any producer upon and against whom ***the*** [~~such~~] assessment shall have been levied and collected under the provisions of KRS 247.510 to 247.595, if dissatisfied with ***the*** [~~said~~] assessment and the result thereof, shall have the right to demand of and receive from the treasurer of ***the promotion board*** [~~said certified association~~] a refund of ***the*** [~~such~~] assessment so collected from ***the*** [~~such~~] producer; provided, ***the*** [~~such~~] demand for refund is made in writing within ***ninety (90)*** [~~thirty (30)~~] days from the date on which ***the*** [~~said~~] assessment is collected from ***the*** [~~such~~] producer.

Section 9. The following KRS section is repealed:

247.575 Fund utilization committee — Membership — Terms.

HB 498, AN ACT relating to grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) A forward pricing, or delayed pricing, contract means an executory contract which shall be in a form and contain terms the department shall adopt by administrative regulation pursuant to KRS 251.480. The forward pricing contract shall be executed by the licensed grain establishment and the producer, or by their authorized representatives, not later than thirty (30) days after the first delivery of grain is received under the forward pricing contract. The licensed grain establishment shall maintain a file of executed forward pricing contracts that are available for inspection at any reasonable time by the department. The licensed grain establishment shall keep records and ledgers which the department deems necessary to document the licensed grain establishment's obligations to the producer under a forward pricing contract. The licensee shall provide reports, forms, and other evidence the department shall adopt by administrative regulation to document the storage and marketing of grain under the forward pricing contract.

(2) Except as otherwise provided in subsection (3) of this section, a licensed grain establishment which purchases grain under a forward pricing agreement shall at all times maintain the grain in storage, rights in the grain, proceeds from the sale of grain, or a combination of the grain, rights, and proceeds equal to eighty percent (80%) of the value of the licensed grain storage establishment's unpaid obligations for all grain that it has purchased and for which delivery has been made under a forward pricing contract. The obligation shall be secured or represented by one (1) or more of the following:

(a) Maintenance of the grain in storage in the licensed grain establishment's warehouse or storage facilities;

(b) Rights in grain as evidenced by a receipt or ticket for storage of the grain under a bailment agreement in another warehouse approved by the department; or

(c) Proceeds from the sale of grain as evidenced or represented by one (1) or more of the following:

1. Funds held in a separate account for the benefit of all unpaid producers of grain delivered under a forward pricing contract with the separate account existing in a state or federal licensed financial institution or a lending agency of the federal Farm Credit Administration;

2. Short-term investments held in time accounts for the benefit of all unpaid producers of grain delivered under a forward pricing contract with state or federal licensed financial institutions or a lending agency of the federal Farm Credit Administration; or

3. Other evidence of unencumbered assets as may be acceptable to the department, including an irrevocable letter of credit or surety bond.

(3) The licensed grain establishment handler account required by subsection (2) of this section shall be deemed grain or the proceeds for grain arising from unpaid obligations for all grain purchased and for which delivery has been made under a forward pricing contract. The Commissioner shall have a priority lien upon the property or assets required to be maintained in the licensed grain establishment's grain handler account as provided in subsection (2) of this section. The Commissioner shall, when he questions a licensed grain establishment's ability to pay producers for grain purchased, or when he determines that the licensed establishment does not have sufficient net worth to satisfy indebtedness, after giving notice to the owner or agent of the owner, prohibit the transfer or disbursement of any grain, property, or assets maintained in the licensed grain establishment handler account, except for the satisfaction of unpaid obligations for grain that has been purchased and for which delivery has been made under a forward pricing contract. Disbursements shall be made under the direction of the Commissioner to grain producers on a pro rata basis. An action to enforce the priority lien created by this subsection may be brought in the name of the Commissioner or the Kentucky Grain Insurance Corporation in the Franklin Circuit Court.

(4) The licensed warehouse establishment and the producer may at the time a forward pricing contract is executed mutually agree and waive the payment of compensation from the Kentucky Grain Insurance Fund authorized by KRS 251.670. The waiver shall be made in writing at the time the forward pricing contract is executed and shall be made in a manner prescribed by the Commissioner and filed with the department within ten (10) days thereafter. Upon the waiver, the grain sold pursuant to the forward pricing contract shall be excluded from the coverage of the Kentucky Grain Insurance Fund and the producer shall be exempted from the assessment at KRS 251.640(1) for the amount of grain covered by the contract. The licensed grain establishment shall not be required to maintain rights in the grain, proceeds from the sale of grain, or a combination of the grain, rights, and proceeds equal to eighty percent (80%) of the value of the licensed storage establishment's unpaid obligation relating to the amount of grain exempted from the payment of compensation from the Kentucky Grain Insurance Fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

The board shall deny the payment of compensation under KRS 251.670 to any claimant who has incurred a financial loss due to the failure of a licensed grain dealer or warehouse, when the board determines:

(1) The claimant has executed a waiver of compensation as part of a forward pricing contract which has been filed with the department as required by Section 1 of this Act. However, the exclusion from coverage shall be limited to the grain or proceeds from grain described in the forward pricing contract waiver.

(2) The claimant as payee has failed to present for payment a negotiable instrument, issued as payment for grain, within ninety (90) days from the date the negotiable instrument is tendered to the claimant in satisfaction of obligations for grain purchased by the licensed grain establishment.

(3) The claimant has engaged in conduct or practices which differ from generally accepted marketing practices within the grain industry to an extent that the claimant's actions have substantially contributed to his financial loss.

Section 3. KRS 251.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 251.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(2) Any person who violates KRS 251.220 or 251.290 shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one (1) year, or both.

(3) Any person who violates KRS 251.240 shall be guilty of a felony and fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both.

(4) Any person who violates KRS 251.300 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(5) Any person who violates the provisions of KRS 251.430 to 251.720 shall be fined two hundred dollars ($200) for the first offense. He shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days for each subsequent offense. Each day of operation in violation of the provisions of KRS 251.430 to 251.720 shall constitute a separate offense.

(6) Any person who operates without a license as required by KRS 251.430 or 251.720 shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for at least one (1) but not more than five (5) years, or both.

(7) Any person who intentionally refuses or fails to pay moneys collected for assessment of grain under the Kentucky Grain Insurance Fund Program as set forth in KRS 251.640 shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(8) Any person who fails or refuses to maintain at all times grain in storage, rights in grain, proceeds from the sale of grain, or a combination of the grain, rights, and proceeds equal to eighty percent (80%) of the value of a licensed grain storage establishment's unpaid obligations to producers for grain delivered under a forward pricing contract as required by Section 1 or Section 2 of this Act shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for at least one (1) year but not more than five (5) years, or both.

(9) Any person who knowingly makes any false statement, representation, or certification, or who knowingly fails to make any statement, representation, or certification in any record, report, or other document filed or required to be maintained by the Commissioner in violation of subsection (2) of Section 1 of this Act shall upon conviction be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation, or imprisoned for at least one (1) year but not more than five (5) years, or both.

(10) Any person who transfers or disburses grain, property, or assets from the licensed grain establishment's handler account in violation of subsection (2) of Section 1 of this Act shall upon conviction be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or be imprisoned for at least one (1) year but not more than five (5) years, or both.

(11) Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with the Commissioner or other agents or employees of the department in performance of the duties assigned by Section 1 or Section 2 of this Act, shall upon conviction be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation, or imprisoned for not more than one (1) year, or both.

(12) If a corporate grain establishment license holder violates any provision of Section 1 or Section 2 of this Act or administrative regulations issued pursuant thereto, or if it fails or refuses to comply with any lawful order issued by the Commissioner, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failed, or refused to comply with any lawful order issued by the Commissioner shall be subject to the same penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

HCR 26, A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

WHEREAS, tobacco production is at the heart of Kentucky's economy; and

WHEREAS, loss of tobacco production or the tobacco program would have a devastating effect on Kentucky and its tobacco farmers; and

WHEREAS, such losses would cause failure of many farms and businesses, decreases in land values, the default of loans and the loss of state and local revenues; and

WHEREAS, the Tobacco Task Force was created by the Legislative Research Commission in 1984 to address problems which threaten the tobacco industry and the tobacco price support program; and

WHEREAS, the Task Force has been instrumental in helping resolve those problems; and

WHEREAS, the Task Force has provided leadership and unified the tobacco states in efforts to resolve the tobacco program's problems and the state must continue that leadership role; and

WHEREAS, the tobacco program remains in jeopardy because of underproduction, labor shortages, marginal prices, problems with the Federal law affecting tobacco, and other problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Tobacco Task Force be reauthorized to help resolve the problems facing the tobacco industry and the tobacco program.

Section 2. Staff services to be utilized by the Task Force are estimated to cost $10,000 and are to be provided by the Commission from its regular budget, subject to the limitations and other research responsibilities of the Commission.

HCR 52, A CONCURRENT RESOLUTION directing the Small Business Task Force to study the various taxes and fees affecting businesses in Kentucky.

WHEREAS, businesses operating in Kentucky are responsible for the payment of several different taxes and fees as a cost of doing business in this state; and

WHEREAS, taxes and fees imposed on businesses by state, county, city, and local districts have become an important factor considered by new or expanding businesses, both large and small, in determining where to locate; and

WHEREAS, it is important that the General Assembly understand the nature and effect of the various taxes and fees imposed on businesses in Kentucky if Kentucky is to remain competitive in its quest to attract new businesses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Small Business Task Force is hereby directed to study the various taxes and fees affecting businesses in Kentucky. The Revenue Cabinet shall provide assistance to the Small Business Task Force in conducting the study. The study shall include, but shall not be limited to, the following:

(1) Providing complete list of all taxes and fees currently imposed by the Commonwealth of Kentucky, its counties, cities, and local taxing districts, on businesses;

(2) Determining the principles and reasons behind the imposition of the various taxes and fees;

(3) Analyzing the fiscal impact of the incidence of the various taxes and fees imposed on businesses, including a determination of the following:

(a) The amount of revenue generated by each tax or fee;

(b) The specific purpose or use of the revenue generated by the taxes and fees, if the purpose or use is specially designated; and

(c) The cost of administering the taxes and fees; and

(4) Making a comparison of the effect of Kentucky's tax and fee structure on businesses in Kentucky with the effect of the tax and fee structures of surrounding and similar states on businesses in those states.

Section 2. The Small Business Task Force shall submit a written report of their findings to the Legislative Research Commission, the Interim Joint Committee on Appropriations & Revenue, and the Interim Joint Committee on Economic Development no later than September 1, 1993.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided for from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 149** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:09 p.m.)

HB 149 was delivered to the Senate and signed by the President. Delivered to the Governor on February 18, 1992 at 2:15 p.m.

Orders of the Day

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 103**:

HR 103, A RESOLUTION adjourning the House of Representatives in loving memory of Peggy Ayers King.

The prophet has said that we must part but in the twilight of memory we will meet once more; we shall speak again together and we shall sing a deeper song.

WHEREAS, Peggy Diane Ayers King was abruptly taken from us at the young age of fifty - the victim of senseless violence; and

WHEREAS, while we mourn we draw comfort in the memory of the smile and laughter of our dear friend, Peggy; and

WHEREAS, Peggy had a quiet eloquence, a compassionate heart, and a joy for living - her kindness welcomed everyone she met as a friend; and

WHEREAS, Peggy King was committed to education excellence, graduating from Miami University of Ohio in 1964 with a Bachelor of Arts, holding a major in English, and a double minor in Math and Education; and

WHEREAS, Peggy King continued her studies at Rosary College in River Forest, Illinois, receiving her Master of Arts in Library Science in 1969; and

WHEREAS, Peggy King was an accomplished and distinguished professional, beginning her career in Frankfort in 1970 as the Acquisitions Librarian at Kentucky State University; and

WHEREAS, in October of 1971, Peggy King began working at the Paul Sawyier Library in Frankfort, serving as Head Librarian from September of 1972 until August of 1974; and

WHEREAS, on October 16, 1976, Peggy Ayers King began her tenure with the Legislative Research Commission; and

WHEREAS, recognized for her dedicated and outstanding service to the Kentucky General Assembly, Peggy King was appointed Legislative Librarian in October of 1979; and

WHEREAS, Peggy was also a vital part of her community, actively participating in religious, civic, and cultural activities; and

WHEREAS, Peggy King was a loving wife, mother, and genuine friend - in her honor we stand together to laud her gentle and gracious soul and to weep, for our loss is great; and

WHEREAS, the spirit of Peggy Diane Ayers King will live forever in our hearts and one day we will meet once more, we shall speak again together, and we shall sing a deeper song;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives, both individually and collectively, do hereby praise and laud our departed friend, Peggy Diane Ayers King.

Section 2. That we do commend the family and friends of Peggy King to the solace of the Almighty to heal the broken hearts and to gain strength to face our daily lives without Peggy.

Section 3. That the House of Representatives does hereby posthumously proclaim Peggy King to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That when the House of Representatives does adjourn this day, Tuesday, February 18, 1992, it does so in loving memory of Peggy King.

Section 5. That the Clerk of the House is directed to transmit a copy of this resolution to the family of Peggy Ayers King.

HR 103 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 103**.

On the roll call the vote was yeas 95—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Williams, Worthington, Yates, Zimmerman. Nays 0.

HB 316, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **HB 316**. Agreed.

Representative Richardson moved that **HB 316**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 18, 1992 roll call on **HB 316** - Appendix.)

HB 316, as amended, was passed and the title agreed to.

Representative Richardson moved that the vote by which **HB 316**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **SB 31** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 18, 1992 roll call on **SB 31** - Appendix.)

SB 31 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 31** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 137** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 18, 1992 roll call on **HB 137** - Appendix.)

HB 137 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 270 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 270** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 18, 1992 roll call on **HB 270** - Appendix.)

HB 270 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 270** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 277 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 277** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 18, 1992 roll call on **HB 277** - Appendix.)

HB 277 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 277** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 278 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 278** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 18, 1992 roll call on **HB 278** - Appendix.)

HB 278 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 278** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 279 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 279** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 18, 1992 roll call on **HB 279** - Appendix.)

HB 279 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 279** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 391 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 391** be passed.

On the roll call the vote was: Yeas 78, Nays 12. (See February 18, 1992 roll call on **HB 391** - Appendix.)

HB 391 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 391** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 409 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 409** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 18, 1992 roll call on **HB 409** - Appendix.)

HB 409 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 409** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 419 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 419** be passed.

On the roll call the vote was: Yeas 89, Nays 4. (See February 18, 1992 roll call on **HB 419** - Appendix.)

HB 419 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 419** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 351 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 351** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 18, 1992 roll call on **HB 351** - Appendix.)

HB 351 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 351** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 372**. Agreed.

Representative Farrow moved the adoption of Committee Amendment No. 2 to **HB 372**. Agreed.

Representative Farrow moved that **HB 372**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 3. (See February 18, 1992 roll call on **HB 372** - Appendix.)

HB 372, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 372**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 334** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 18, 1992 roll call on **HB 334** - Appendix.)

HB 334 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 16**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 16**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 3 to the Committee Substitute to **HB 16**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 16**. Agreed.

Representative Sheehan moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 16**. Agreed.

Representative Gedling moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 16**. Agreed.

Representative Donnermeyer moved that **HB 16**, by way of Committee Substitute as amended, be passed.

Representative Walker moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 16**.

On the roll call the vote was yeas 32—Ackerson, Allen, Altman, Bryant, Casebier, Farley, Ford, Freibert, Gee, J. Harper, K. Harper, Heleringer, Jensen, Keith, Lile, Mullinix, Napier, Noland, Northup, Nunn, Overstreet, Reinhardt, Sanders, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Williams, Zimmerman. Nays 61—Adkins, Ark, Arnold, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Deskins, Donnermeyer, Farrow, Geveden, Gray, Gregory, Hancock, Hatcher, Hourigan, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Little, Long, Lyne, Maggard, Mason, McElroy, Moberly, Morris, Nelson; Noe, Palumbo, Rapier, Richards, Richardson, Ridley, Riggs, Scorsone, Sheehan, B. Smith, R. Smith, Stumbo, Ward, Wayne, Worthington, Yates.

The motion that Floor Amendment No. 9 to the Committee Substitute to **HB 16** be adopted was rejected.

On the roll call on the passage of **HB 16**, by way of Committee Substitute as amended, the vote was: Yeas 86, Nays 7. (See February 18, 1992 roll call on **HB 16** - Appendix.)

HB 16, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 16**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 106, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 106**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 106**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 106**. Agreed.

Representative Donnermeyer moved that **HB 106**, by way of Committee Substitute as amended, be passed.

Representative Ark moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 106**. Rejected by voice vote.

Representative Gedling moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 106**.

On the roll call the vote was yeas 37—Ackerson, Allen, Ark, Barrows, Bronger, Brown, Bryant, Burch, Casebier, P. Clark, Collins, Farley, Gedling, Gee, Gregory, Hancock, Heleringer, Hourigan, Jensen, Keith, LeMaster, Lyne, Mason, Mullinix, Napier, Nunn, Palumbo, Riggs, Riner, Sanders, B. Smith, T. Smith, Strong, Toby, Todd, Turner, Zimmerman. Nays 44—Altman, Bentley, Blandford, Bowling, Bruce, Butler, Callahan, L. Clark, Clarke, Coleman, Curd, Cyrus, Deskins, Donnermeyer, Farrow, J. Harper, Hatcher, Johnson, Jones, Kerr, Lear, Lewis, Little, Long, Mack, Maggard, McElroy, MOberly, Morris, Nelson, Noe, Overstreet, Rapier, Reinhardt, Richards, Ridley, Scorsone, Sheehan, Stumbo, Walker, Ward, Wayne, Williams, Yates.

The motion that Floor Amendment No. 4 to the Committee Substitute be adopted was rejected.

Representative Ark moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 106**.

On the roll call the vote was yeas 13—Ark, Brown, Burch, Curd, Gedling, Gregory, LeMaster, Mullinix, Richards, Riggs, Sanders, B. Smith, Todd. Nays 60—Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richardson, Ridley, Riner, Scorsone, Sheehan, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman.

The motion that Floor Amendment No. 5 to the Committee Substitute to **HB 106** be adopted was rejected.

Representative Donnermeyer moved that **HB 106**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See February 18, 1992 roll call on **HB 106** - Appendix.)

HB 106, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 106**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the following Bills be recommitted:

Appropriations and Revenue: **HB 396, HB 169**

Economic Development: **HB 89**

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 111**, **HB 138** and **HCR 10** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:14 p.m.)

Motions, Petitions and Communications (Continued)

Reprensentative Strong moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 107, by Representative Strong: A RESOLUTION commending the Hazard High School Bulldogs basketball team for winning the All "A" 14th Region Championship.

Representative Strong moved the adoption of the following **HR 107**:

HR 107, A RESOLUTION commending the Hazard High School Bulldogs basketball team for winning the All "A" 14th Region Championship.

WHEREAS, the Bulldogs of Hazard High School have had their work cut out for them on the basketball courts this season; and

WHEREAS, the Bulldogs know how to win when it counts, as they pulled out a heartstopper to win the All "A" 14th Region Championship on January 31, 1992; and

WHEREAS, the Bulldogs were quarter finalists in the All "A" Classic State Tournament at Rupp Arena and are now honing their skills for the next tournament;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate the Hazard High School Bulldogs basketball team for winning the All "A" 14th Region Championship.

Section 2. That this esteemed institution wishes the Bulldogs good luck in their upcoming games and commends head coach John Quillen, assistant coaches Kerry Hill, Ron Combs, Paul Olinger and principal Jimmy Cornett and Superintendent Fred Stidham for their guidance and support.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to coach John Quillen, Hazard High School, Highway 15 South, Hazard, Kentucky 41701.

HR 107 was adopted by voice vote.

Representative Strong moved that a call of the roll be taken to show co-sponsors of **HR 107**.

On the roll call the vote was yeas 60—Adkins, Arnold, Ballard, Barrows, Bentlehy, Blandford, Bowling, Bronger, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, Clarke, Cyrus, Deskins, Donnermeyer, Farley, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Jensen, Lewis, Lile, Little, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Northup, Overstreet, Palumbo, Reinhardt, Richardson, Ridleyh, Sanders, Sheehan, R. Smith, Strong, Toby, Todd, Walker, Ward, Wayne, Williams, Yates. Nays 0.

Representative Palumbo moved the adoption of the following **HR 99**:

HR 99, A RESOLUTION recognizing the Garden Springs Scholastic Chess Association, Inc., and honoring the game of chess.

WHEREAS, on May 8-10, the Garden Springs Scholastic Chess Association, Inc., will host the 1992 National High School Chess Championships at Heritage Hall in Lexington; and

WHEREAS, the Garden Springs Scholastic Chess Association, Inc., a totally voluntary organization, should be duly proud of bringing such a prestigious event to the heart of the bluegrass; and

WHEREAS, scholastic chess for school-aged children has been growing at a phenomenal rate over the past five years, and over 1,000 participants from at least thirty-three states are expected to attend the tournament; and

WHEREAS, because chess is a game which involves an extensive amount of reasoning, creative thinking, critical analysis, and decision making, the National Association of Secondary School Principals annually places the National High School Chess Championship on its National Advisory List of Contests and Activities; and

WHEREAS, the chess tournament will include such activities as two Grandmaster Simuls, a Grandmaster lecture, coaches' workshops, and book sales as well as time for participants to sightsee and enjoy our great Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate and recognize the Garden Springs Scholastic Chess Association, Inc., for bringing the 1992 National High School Chess Championships to Lexington, Kentucky.

Section 2. That this venerable institution does hereby applaud the increasing popularity of the ancient game of chess and commends it to all Kentuckians of whatever age.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Susan Baker Williams, 481 Shaftsbury Road, Lexington, Kentucky 40505-2626.

HR 99 was adopted by voice vote.

Representative Kerr moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 104, by Representative Kerr: A RESOLUTION honoring Paul Cooper, Sr. upon his retirement from General Electric after forty years of service.

Representative Kerr moved the adoption of the following **HR 104**:

HR 104, A RESOLUTION honoring Paul Cooper, Sr. upon his retirement from General Electric after forty years of service.

WHEREAS, Paul Cooper, Sr. was born on April 20, 1929 in Covington, Kentucky and later moved to Independence; and

WHEREAS, Paul Cooper, Sr. joined the Army Air Corps in 1946 and served two and one half years in Japan, Okinawa, Guam, the Philippine Islands and Kimpo, Korea; and

WHEREAS, Paul Cooper, Sr. was in the 81st Fighter Squadron of P-51 Mustangs and was later transferred to the P-61 Night Fighter Squadron which later became known as the Black Widows; and

WHEREAS, after being honorably discharged with the rank of Staff Sergeant in 1949, Paul Cooper, Sr. returned to his home in Independence where he married, and joined the General Electric Company; and

WHEREAS, Paul Cooper, Sr. was elected Mayor of Independence in 1970 and subsequently served on the Independence City Council; and

WHEREAS, while at General Electric Paul Cooper, Sr. was a member of the Local Lodge Bargaining Committee for 23 years, was a Steward for five years, a Chief Steward for four years, and an Executive Board member for nine years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby commend Paul Cooper, Sr. for his years of service to his community and his country.

Section 2. That the House applauds the dedication of Paul Cooper, Sr. to his union and his employer and wishes him well upon his retirement from General Electric after forty years.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Paul Cooper, Sr., Madison Pike, Nicholson, Independence, Kentucky 41051.

HR 104 was adopted by voice vote.

Representative Stumbo moved that **HB 493** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponosrs. Agreed.

Introduction of Bills and Resolutions (Continued).

HB 552, by Representatives Farrow, B. Smith, Altman, Coleman, Richardson, T. Smith and Hatcher: AN ACT relating to insurance.

HB 553, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 554, by Representative Burch: AN ACT relating to psychiatric residential treatment facilities.

HB 555, by Representative Long: AN ACT relating to revenue and taxation.

HB 556, by Representative Palumbo: AN ACT relating to restaurant franchising.

HB 557, by Representative Long: AN ACT relating to state employees.

HB 558, by Representatives Kerr and Jensen: AN ACT relating to the judicial retirement plan.

HB 559, by Representatives Crupper, Farrow, B. Smith, Coleman, Gee, Hourigan, T. Smith, Hancock, Rapier and Kerr: AN ACT relating to the livestock fund.

HB 560, by Representatives Kerr, Yates and K. Harper: AN ACT relating to heating, ventilation, and air conditioning contractors.

HB 561, by Representatives Bruce and Morris: AN ACT relating to reorganization.

HB 562, by Representatives Morris and Bruce: AN ACT relating to reorganization.

HB 563, by Representatives Bruce and Morris: AN ACT relating to reorganization.

HB 564, by Representative Stumbo: AN ACT relating to mobile homes.

HB 565, by Representatives Donnermeyer, Callahan, Sheehan, Kerr, T. Smith and Yates: AN ACT relating to abortion.

HB 566, by Representatives Cyrus, Hancock, Barrows, Farrow, Morris and Adkins: AN ACT relating to health insurance for state employees.

HB 567, by Representatives Little and Deskins: AN ACT relating to surface mining.

HB 568, by Representative Sheehan: AN ACT relating to the practice of engineering.

HB 569, by Representative Noland: AN ACT relating to legal notices.

HB 570, by Representatives Mason and Bentley: AN ACT relating to oil and gas.

HB 571, by Representative Johnson: AN ACT relating to unemployment insurance.

HR 105, by Representatives Richards and B. Smith: A RESOLUTION in memory and honor of Margie Helm of Bowling Green.

HR 106, by Representative Gray: A RESOLUTION recognizing, honoring, and celebrating Black History Month.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 295**, **SB 123**, **HB 433**, **HB 434**

Business Organizations and Professions: **HB 91**

Elections and Constitutional Amendments: **HB 516**

Health and Welfare: **HB 193**, **HJR 94**

Natural Resources and Environmental Protection: **HB 386**

State Government: **SJR 7**, **SB 99**, **SB 96**, **SB 107**, **SB 111**, **HB 464**, **HB 487**, **HB 101**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions: **HB 114**, Representatives Adkins, Yates; **HB 115**, Representative Stumbo; **HB 208**, Representative Adkins; **HB 256**, Representative Stumbo; **HB 409**, Representative Ackerson; **HB 445**, Representative Stumbo; **HB 466**, Representative Altman; **HB 498**, Representatives Curd, Lyne, Ridley; **HB 540**, Representatives Bowling, Farley, Nunn, Yates; **HB 566**, Representative Bruce; **HR 33**, Representative Noe.

The following member filed a request to have his name withdrawn as a co-sponsor to the following Bill: **HB 454**, Representative Sheehan.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "yea" on **HB 419**. Agreed.

Representative Morris moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Morris moved that he be recorded as voting "yea" on **HB 409**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 277**. Agreed.

Announcements

The following meetings were announced:

Counties and Special Districts, 8:00 a.m., February 19, 1992.

Cities, February 18, 1992, fifteen minutes upon adjournment.

Budget Review Subcommittee on Education, February 18, 1992, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 19, 1992.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Maggard, Mason, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Heleringer, LeMaster, Lile, McElroy.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 19, 1992

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Glenn Daugherty, Church of God, Lancaster.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Representative Stumbo introduced the new member of the House of Representatives from District 71.

The following Certificate of Election was presented and read for Jerry Ravenscraft:

COMMONWEALTH OF KENTUCKY
State Board of Elections
Frankfort, Ky., February 18, 1992

The undersigned, a Board for examining the returns of an election held on Saturday, the 15th day of February, 1992, for State Representative Seventy-first Representative District (unexpired term) of the State of Kentucky, do certify that JERRY RAVENSCRAFT received the highest number of votes given for that office, as certified to the Secretary of State, and is, therefore, duly and regularly elected for the term prescribed by the Constitution.

s/Wade Durlin, Member		s/Bob Babbage, Chairman
s/Jane G. Bruce, Member		s/Charles E. Rodgers, Member
s/John Chowning, Member		s/Jean C. Malone, Member
s/James A. Rankin, Member	Attest:	s/George Russell State Board of Elections Executive Director

The oath of office was administered to Representative Ravenscraft by the The Honorable Robert F. Stevens, Chief Justice of the Supreme Court of Kentucky.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 18, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 54**, **SB 109**, **SB 112**, **SB 122**, **SB 141**, **SB 144**, **SB 147**, **SB 148**, **SB 149**, **SB 150**, **SB 159**, **HB 12**, **HB 13**, **HB 23** and **HB 139**. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 572, by Representative Nelson: AN ACT relating to motor vehicle registration.

HB 573, by Representative Farley: AN ACT relating to crimes and punishments.

HB 574, by Representative Farrow: AN ACT relating to attorney fees.

HB 575, by Representatives R. Smith and Adkins: AN ACT relating to the issuance of permits by the Natural Resources and Environmental Protection Cabinet.

HB 576, by Representative Lewis: AN ACT relating to insurance holding company systems.

HB 577, by Representatives Strong, Sanders, Altman and Turner: AN ACT relating to out-of-state solid waste.

HB 578, by Representative Richards: AN ACT relating to real estate brokers and salesmen.

HB 579, by Representatives R. Smith, Brown, Long, Bentley, Ravenscraft, Geveden, Blandford, Richards, Rapier, Worthington, Ballard, Stumbo, Jensen, Farley, J. Harper, Bronger, B. Smith, Castleman, Deskins, Lyne, McElroy, Overstreet, Farrow, Altman, Coleman and Adkins: AN ACT relating to the administrative regulatory process.

HR 108, by Representative Palumbo: A RESOLUTION honoring and commending Representative Ernesto Scorsone on his fortieth birthday.

HR 109, by Representative Burch: A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Foster Parents.

HCR 110, by Representative R. Smith: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a special task force on highway signage.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 547, HB 559**

Appropriations and Revenue: **SB 161, HB 553, HB 555, HB 564, HB 557**

Banking and Insurance: **HB 548**

Business Organizations and Professions: **HB 556, HB 568**

Cities: **HB 551, HB 569**

Education: **HB 545**

Health and Welfare: **HB 554, HB 566**

Judiciary: **HB 546, HB 550, HB 558, HB 565, HB 552**

Labor and Industry: **HB 560, HB 571**

Natural Resources and Environmental Protection: **HB 567**

State Government: **HB 562, HB 561, HB 563**

Tourism Development and Energy: **HB 570**

Transportation: **SB 70, HB 549**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 556, HB 420, HB 374**

Banking and Insurance: **SB 66, SB 79, HB 552**

Education: **HB 545**

Report of Committees

The Committee on Cities reported **HB 64**, with Committee Amendments attached thereto, **HB 212**, **HB 339**, with Committee Amendment attached thereto, **HB 384**, **HB 389**, with Committee Amendment attached thereto, **HB 458**, **SB 12** and **SB 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to urban county pension systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the [~~said~~] pension fund for those employees covered by the [~~said~~] pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum necessary to maintain ***the*** [~~such~~] fund in accordance with the actuarial principles established by the actuarial studies described ***in this section*** [~~hereafter~~], and may assess monthly ***the*** [~~such~~] amount or percent of the salary of the employees as [~~may be equitably~~] determined on a fair actuarial basis, and in any case not in excess of ***nine*** [~~eight~~] percent ***(9%)*** [~~(8%)~~] of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial study, which [~~study~~] shall be completed within six (6) months thereafter, and [~~which study~~] shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the [~~said~~] fund, including any payments required to bring ***the*** [~~said~~] fund to an actuarially sound position ***if*** [~~in the event that~~] it was not so at the time of the performance of the study.[~~, in which latter event~~] The legislative body shall [~~also~~] determine a reasonable period over which [~~such~~] additional funding***, if any,*** shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every three-year period thereafter. ***If the*** [~~In the event that~~] fund created by this section is extended to cover employees not described in the first sentence ***of this section*** [~~hereof~~], the actuarial study shall determine the required payments ***necessary*** [~~so as~~] to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain ***the*** [~~such~~] fund [~~as set out herein~~], and shall assess against the additional covered employees the same monthly contribution as [~~is~~] required for other government employees.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions [~~so~~] picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). However, the urban-county government shall continue to withhold federal and state incom taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.

(4) There is hereby created a board for the existing employees' pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the Division of Personnel, and three (3) civil service employees to be elected to the board by those employees covered by the employees' pension fund. In the event that there is no position in the urban-county government denominated secretary of the Finance and Administration Cabinet and/or director of the Division of Personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.

(7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employees frequent and report.

(8) If the urban-county government issues the appropriate order allowing participation in the County Employees Retirement System alternate participation plan pursuant to KRS 78.530(3) and 78.531(2), the urban-county government shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local pension fund and to retirees and their survivors as determined by actuarial evaluation and other than assets payable to the County Employees Retirement System pursuant to KRS 78.531(2), to assist in the payment of both the employee's and employer's costs of alternate participation pursuant to KRS 78.530(3)(d).

The Committee Amendment No. 1 to **HB 64** is as follows:

Amend printed copy of **HB 64** on page 6, after line 3, by adding:

"Section 2. Whereas the employer contributions required to effect the transfer of employees to the County Employees Retirement System is expected to increase prior to July 15, 1992, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Committee Title Amendment to **HB 64** is as follows:

Amend printed copy of **HB 64** by amending the title to read as follows:

"AN ACT relating to urban-county pension systems and declaring an emergency."

HB 212, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.410 is amended to read as follows:

(1) Any member may, at his option, retire on a service retirement annuity upon or after attainment of the age of fifty (50) years, ***if*** [~~provided~~] he shall have completed at least twenty (20) years of total service. Upon fulfillment of these terms, [~~it is mandatory that~~] the board shall grant the retirement annuity upon receipt of the application of ***the*** [~~said~~] member.

(2) Any member who withdraws from service prior to age fifty (50) years after having completed at least twenty (20) years of total service, and who does not accept a refund of contributions, shall receive, upon application, a certificate entitling him to a service retirement annuity upon his attainment of age fifty (50), and specifying the amount of the annuity earned and accrued at the date of withdrawal from service.

(3) Upon the death, prior to age fifty (50), of a member holding a certificate granted pursuant to subsection (2) of this section, the surviving spouse shall receive an annuity equal to sixty percent (60%) of the annuity specified on the certificate, subject to the conditions and additional benefits found in KRS 67A.450(1)(a), 67A.450(1)(b), 67A.450(2), and 67A.450(3).

HB 339, AN ACT relating to delinquent taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.330 is amended to read as follows:

(1) When [~~Whenever~~] the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360 and 134.370, the fiscal court shall promptly cause ***a*** [~~such~~] list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of three dollars ($3) per name per publication shall be added to the amount of each tax claim [~~so~~] published[~~,~~] as publication costs.

(2) Cities may publish a list of uncollected delinquent taxes, showing the name of and the amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of three dollars ($3) per name per publication may be added to the amount of each tax claim published as publication costs.

The Committee Amendment No. 1 to **HB 339** is as follows:

Amend printed copy of **HB 339** on page 1, line 12, after the word "*taxes*" by inserting and underlining the following:

"***levied under Section 181 of the Kentucky Constitution***".

HB 384, AN ACT changing the classification of the City of Van Lear, in Johnson County.

Whereas, satisfactory information has been presented to the General Assembly that the population of the City of Van Lear, in Johnson County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Van Lear, in Johnson County, is transferred from the sixth to the fifth class of cities.

HB 389, AN ACT relating to city contracts with sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 79.110 is amended to read as follows:

Notwithstanding any existing means provided by law for joint functions by any political subdivisions of this state, the governing bodies of any two (2) or more political subdivisions within the same county, which may include the fiscal court, may enter into contractual arrangements with each other for the performance of governmental services anywhere within the boundaries of the county. ***The governing body of a city may enter into a contractual agreement with the sheriff of the county in which the city is located for the sheriff to provide police protection within the city.***

The Committee Amendment No. 1 to **HB 389** is as follows:

Amend printed copy of **HB 389** on page 1, line 9, after "county." by inserting the following:

"***Except in counties containing a city of the first class or an urban-county government,***".

HB 458, AN ACT relating to retiree health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, and each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852 and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement

systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in line of duty, as defined in KRS 16.505(20), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(20), shall have the premium for the beneficiary and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems except service added to determine disability benefits shall not be counted as "months of service."

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents and disabled children, regardless of the disabled child's age, of a recipient who was a former member of one (1) or more of the three (3) retirement systems, and to the beneficiary where the beneficiary is receiving a retirement allowance, if the premium for the spouse, dependent, disabled child or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits. The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was a member of the general assembly and is receiving a retirement allowance based on general assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, as the fund pays or paid for the member. ***The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.***

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

SB 12, AN ACT relating to solid waste management districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.115 is amended to read as follows:

(1) A single county, or two (2) or more counties may create a waste management district in accordance with the procedures of KRS 65.182. Waste management districts shall have all powers and authority set forth in KRS 109.041.

(2) The waste management district shall be controlled and managed by a board of directors.

(3) The fiscal court shall determine the composition of the board of directors in one of the following ways:

(a) Appointment of the county judge/executive of every county, or portion of a county, within that district and the mayor of the most populous city in each county. Appointment of a third member from each county in the district so that representation on the board shall be in proportion to the urban-rural population distribution in the county. The county judge/executive and the mayor [~~so appointed~~] may delegate a representative to serve in their stead.

(b) Appointment of members by the county judge/executive and confirmed by the respective fiscal court. In the case of multi-county districts, membership on the board shall be apportioned among the counties in ratio to their population with each county having at least one (1) member. ***The mayor of the most populous city in each county that is a participant in the waste management district shall be appointed a member.*** In no case shall the total membership of the board consist of ***fewer*** [~~less~~] than three (3) persons [~~nor more than twelve (12) persons~~]. When a county has two (2) or more members on the board, members shall be selected from urban or rural areas in the same proportion as the urban-rural population distribution in the county, except that there shall be at least one (1) member each from a rural and from an urban area.

SB 13, AN ACT relating to speed limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.390 is amended to read as follows:

(1) ***As used in this section, unless the context requires otherwise:***

(a) "Business district" means the territory contiguous to and including a highway if, within six hundred (600) feet along the highway, there are buildings in use for business or industrial purposes that occupy three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway;

(b) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is improved with residences or residences and buildings in use for business;

(c) "State highway" means a highway or street maintained by the Kentucky Department of Highways; and

(d) "Non-urbanized area" means an area located outside of the federal-aid urban boundary designated for urbanized areas of fifty thousand (50,000) population or more as defined by the United States Bureau of Census.

(2) An [~~No~~] operator of a vehicle upon a highway shall ***not*** drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(3)[~~(2)~~] ***If conditions exist that require*** [~~Where no condition exists that requires~~] lower speed for compliance with subsection ***(2)***[~~(1)~~] of this section, the speed of any vehicle [~~not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed~~] in excess of the limits specified in this section [~~or established as hereinafter authorized~~] shall be unlawful:

(a) For [~~all~~] vehicles other than motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, ***except as provided in subsection (5) of this section,*** and fifty-five (55) miles per hour in other locations, except where the speed limit has been posted at sixty-five (65) miles per hour;

(b) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location ***except as provided in subsection (5) of this section***;

(c) [~~All~~] Vehicles[~~, when~~] using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour.

(4)[~~(3)~~] ***If*** [~~Whenever~~] the secretary of transportation ***determines,*** [~~shall determine~~] upon the basis of an engineering and traffic investigation, that any speed limit [~~hereinbefore set forth~~] is greater or less than is reasonable or safe under the conditions ound to exist at any intersection, or upon any part of a state highway within or without the corporate limits of a ***city, the*** [~~municipality, said~~] secretary of transportation may [~~determine and~~] establish [~~by official order~~] a reasonable and safe speed limit at ***the*** [~~such~~] location. ***The*** [~~which shall be effective at all times or during hours of daytime or nighttime, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or part of the state highway. In no event, however, shall said~~] secretary ***shall not*** increase any speed limit established by subsection ***(3)***[~~(2)~~] of this section [~~so as to permit in any instance a speed limit~~] in excess of fifty-five (55) miles per hour.

(5)[~~(4)~~] (a) ***A city or a county may by ordinance establish speed limits within the city or county, except as provided in paragraph (b) of this subsection*** [~~Whenever municipal authorities or the fiscal court of any county determine upon the basis of an engineering and traffic investigation that the speed permitted under subsection (2) of this section is greater or less than is reasonable or safe under the conditions found to exist, at any location within the municipality or unincorporated areas of such county, such municipal authority or fiscal court, subject to paragraph (b) of this subsection, shall determine and authorize by ordinance or order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such times as may be determined when appropriate signs giving notice thereof are appropriately erected at such location. In no event, however, shall said municipal authority or fiscal court increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of fifty-five (55) miles per hour~~].

(b) ***The*** alteration of speed limits on state highways within a ***city or a county*** [~~municipality by municipal authorities or within the unincorporated areas of counties by fiscal courts thereof~~] shall not be effective until ***the*** [~~such~~] alteration has been approved by the secretary of transportation. ***The*** [~~In no event shall said~~] secretary ***shall not*** approve any alteration ***that*** [~~which~~] could increase any speed limit established by subsection ***(3)***[~~(2)~~] of this section [~~so as to permit in any instance a speed limit~~] in excess of fifty-five (55) miles per hour.

(c) ***If a*** [~~Whenever the fiscal court of any~~] county determines, upon the basis of an engineering and traffic investigation and study, that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce ***the*** [~~such~~] congestion, [~~then~~] the fiscal court may by ***ordinance*** [~~order~~] establish "no parking" areas on ***the*** [~~and along said~~] highway, or limit the length of time any motor vehicle may be parked in any business district[~~, which order or orders shall be effective at all times and during hours of daytime or nighttime and at such other times as may be determined when appropriate signs giving notice thereof are erected at such locations~~].

(d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish[~~, by official order,~~] reasonable and safe speed limits on interstate highways and divided highways with four (4) or more lanes and fully controlled access and located in a non-urbanized area, a speed limit not to exceed sixty-five (65) miles per hour.

(6)[~~(5)~~] ***A*** [~~No~~] person shall ***not*** drive a motor vehicle at [~~such~~] a [~~slow~~] speed ***that will*** [~~as to~~] impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(7)[~~(6)~~] In every charge for a violation of any speed limit specified in this section [~~or established as herein authorized~~], the warrant or citation shall specify the speed at which the defendant is alleged to have driven, ***and*** [~~also~~] the lawful speed limit applicable at the location where the violation is charged to have occurred.

[~~(7) As used in this section, the following words and phrases shall have the meanings respectively ascribed to them:~~

~~(a) "Business district," the territory contiguous to and including a highway when within any six hundred (600) feet along such highway there are buildings in use for business or industrial purposes which occupy three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway;~~

~~(b) "Residential district," the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business;~~

~~(c) "State highway," a highway or street maintained by the department of highways;~~

~~(d) "Nighttime," the period from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, and at such other periods as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period; "daytime" means at any other period.~~

~~(e) "Non-urbanized area," an area located outside of the federal-aid urban boundary designated for urbanized areas of fifty thousand (50,000) population or more as defined by the bureau of census.~~

~~(8) The signs and notices which the fiscal court is authorized hereby to have erected shall be paid for by the fiscal court out of the county levy.~~]

Section 2. KRS 179.070 is amended to read as follows:

The county engineer shall:

(1) Have general charge of all county roads and bridges within ***the*** [~~his~~] county;

(2) See that county roads and bridges are improved and maintained as provided by law;

(3) Supervise the construction and maintenance of county roads and bridges and other work of like nature undertaken by the fiscal court;

(4) Make reports [~~from time to time~~] as the county or fiscal court directs;

(5) Advise and direct employees of contractors how best to repair, maintain, and improve county roads and bridges;

(6) Examine the various formations and deposits of gravel and stone in ***the*** [~~his~~] county to ascertain the materials most available and best suited for the improvement of roads therein, and, when requested by the Department of Highways, submit samples of [~~such~~] materials and deposits and make a written report concerning the materials;

(7) Establish or cause to be established necessary grades and recommend means of drainage, repair, and improvement;

(8) Together with the fiscal court, consider and either reject or approve plans, specifications, and estimates submitted for the erection or repair of bridges and the construction or maintenance of county roads;

(9) Inspect, or cause to be inspected, each county road or bridge during its construction or improvement, and certify to the fiscal court the progress of the work and whether or not the work is being done according to the contract, plans, and specifications prepared therefor. If [~~he finds that~~] the work is not being done in accordance with the contract, plans, and specifications, he may stop any further work thereunder until the fiscal court has inspected and passed upon it;

(10) Remove trees or other obstacles from the right of way of any publicly dedicated road when the tree or other obstacles become a hazard to traffic; and

(11) Make recommendation to municipal authorities in a county containing a city of the first or second class or the county judge/executive of a county containing a city of the first or second class for the establishment of speed limits [~~by either~~] in accordance with the powers granted to municipal authorities and the county judge/executive by ***subsection (5)(a) of Section 1 of this Act*** [~~KRS 189.390(4)(a)~~], and make recommendations to the county judge/executive for the establishment of parking restrictions by the county judge/executive in accordance with ***subsection (5)(c) of Section 1 of this Act*** [~~KRS 189.390(4)(c)~~];

(12) Make engineering and traffic investigations and make recommendations based thereupon to the fiscal court of counties containing a city of the first or second class for the adoption of traffic regulations for any publicly dedicated road in unincorporated portions of the county or for any road made a portion of a county through road system, established in accordance with KRS 178.330 or 178.333, or both, in any manner reasonably calculated to promote the safety and convenience of the traveling public and to protect and preserve the roads and streets. The fiscal court may adopt regulations which may include, but not be limited to, the establishment on roads designated in the first sentence of this subsection, of traffic lanes, the installation or removal of electric signals and other signs and markers, the removal of traffic bumps, the limitation or prohibition of parking, and the regulation or prohibition of a size or weight deemed likely to impede traffic or injure the streets; provided, however, that if such regulation of size and weight of vehicles conflicts with state regulations, the latter shall prevail. Nothing herein shall be construed to prevent the fiscal court from contracting with city authorities for the joint installation of signs, markers, and electric signals and for their maintenance.

(13) In counties containing a city of the first class, or when authorized by ordinance of the fiscal court of a county containing a city of the second class, having the services of a county engineer, every person, subdivider, builder, contractor, or developer of any construction project shall submit to the county engineer for his written approval a site development plan providing for the proper drainage of surface water from the development or construction site so as to prevent flooding of property in the area. If the proposed site plan does not adequately provide for such drainage, the county engineer shall order such changes as necessary before approving the site plan.

Section 3. KRS 189.230 is amended to read as follows:

(1) The department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (2) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection ***(4)***[~~(3)~~] of KRS 189.390, respectively, ***if in*** [~~whenever in its or~~] their judgment any highway may, by reason of its design, deterioration, rain or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department or county judges/executive may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, ***if in*** [~~whenever, in its or~~] their judgment, ***the regulation*** [~~such regulations~~] or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

(3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After [~~such~~] a notice has been posted, ***a*** [~~no~~] person shall ***not*** operate any motor truck or semitrailer truck contrary to its provisions.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection ***(5)***[~~(4)~~] of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection ***(5)***[~~(4)~~] of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(2) shall be fined fifty dollars ($50).

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(26) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

The Committee on Counties and Special Districts reported **HB 84**, with Committee Substitute attached thereto, **HB 219**, with Committee Amendment attached thereto, **HB 329**, **HB 390**, **HB 408**, with Committee Amendment attached thereto, **HB 410**, with Committee Amendment attached thereto, **HB 480** and **HB 505** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 84, AN ACT relating to county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The primary legislative body of each county shall, by January 1, 1993, enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of Sections 1 to 5 of this Act, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) Primary legislative bodies shall make appropriations of money for the reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive with approval by the primary legislative body, and three (3) members appointed by the county sheriff. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) All deputy sheriffs on active duty or service as of the effective date of an ordinance of the primary legislative body of the county creating a deputy sheriff merit board shall be deemed fit and qualified to continue their employment and shall be considered permanent employees.

(2) No person appointed deputy sheriff after the effective date of the ordinance of the primary legislative body creating a deputy sheriff merit board shall retain that appointment if he does not, within one (1) year from the date of appointment as a deputy sheriff, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

SECTION 3. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall, while in uniform, directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall be a candidate for any public office other than the office of sheriff. No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall be a candidate for the office of sheriff of the county in which he serves if the currently serving, duly elected sheriff of that county is also a candidate for the office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

SECTION 4. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in subsection (5) of Section 3 of this Act, the sheriff shall furnish the deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to subsection (5) of Section 3 of this Act, every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be subject to review by the board at the request of any deputy sheriff affected by the provisions of Sections 1 to 5 of this Act.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in Sections 1 to 5 of this Act. The citizen may appeal the determination of the sheriff to the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of Sections 1 to 5 of this Act on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in subsection (5) of Section 3 of this Act, the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of Sections 1 to 5 of this Act shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030 or to any special deputy appointed by the sheriff pursuant to KRS 70.045.

Section 6. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure ***except where that revocation is prohibited by the provisions of Sections 1 to 5 of this Act***. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

The Committee Substitute to **HB 84** is as follows:

HB 84, AN ACT relating to county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of Sections 1 to 5 of this Act, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Each person serving as a deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall, within one (1) year following the effective date of that ordinance, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(2) Each person appointed as a deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall, within one (1) year following the appointment, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(3) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

SECTION 3. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

SECTION 4. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in subsection (5) of Section 3 of this Act, the sheriff shall furnish the deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to subsection (5) of Section 3 of this Act, every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be subject to review by the board at the request of any deputy sheriff affected by the provisions of Sections 1 to 5 of this Act.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of Sections 1 to 5 of this Act shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken

against the deputy, subject to the limitations set out in Sections 1 to 5 of this Act. The citizen may appeal the determination of the sheriff to the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of Sections 1 to 5 of this Act on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in subsection (5) of Section 3 of this Act, the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of Sections 1 to 5 of this Act shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030 or to any special deputy appointed by the sheriff pursuant to KRS 70.045.

Section 6. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure ***except where that revocation is prohibited by the provisions of Sections 1 to 5 of this Act***. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under Section 1 of this Act shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in Section 1 of this Act.

HB 219, AN ACT relating to financing fire protection programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "dry hydrant" means a pipe installation from a body of water to a standpipe to which a fire department can attach its units and pump a minimum of two hundred fifty (250) gallons of water per minute for a two (2) hour period.

(2) A county may cooperate with the Soil and Water Conservation Commission, Natural Resources and Environmental Protection Cabinet, in a cost sharing program to install dry hydrants. Dry hydrants shall be installed for the purpose of fire protection at strategic points where suitable bodies of water are located near structures to be protected.

(3) The county shall secure from the lawful owner of the water impoundment written consent for access to determine the amount of water available, to determine the accessibility of the standpipe to pumpers and other equipment, to conduct tests to determine whether the water is obtainable, to install and maintain dry hydrants and other improvements to enhance accessibility, and to use the available water to fight fires.

(4) The county may delegate rights, obtained through its written agreement with the lawful owner of the water impoundment, to any fire department authorized to operate in the county, but the county shall be responsible for the maintenance and continued accessability of dry hydrants.

Section 2. KRS 146.110 is amended to read as follows:

(1) The commission shall have the general power to take any action it may consider necessary or proper to assist soil and water conservation districts or watershed conservancy districts in carrying out their functions, powers, duties and programs in accordance with the provisions of KRS Chapter 262, and for such purpose it may furnish financial and other aid to the districts and perform such services for them at their request as may be possible under available appropriations and resources;

(2) The commission has all the powers and duties formerly possessed by the State Soil Conservation Committee;

(3) The commission shall take any action it may consider necessary or proper in order to discharge for the state any of the state's functions, responsibilities or duties relating to flood control, drainage and other activities with respect to the conservation, utilization or control of soil or water resources;

(4) The commission may prescribe such rules and regulations as may be necessary to the performance of its duties and may enter into and execute any agreements or legal instruments that may be necessary for such purpose and it shall have the authority to acquire necessary supplies, materials and equipment, and warehousing, servicing and maintenance facilities for such equipment.

(5) (a) The commission may cooperate with counties in a cost sharing program to install dry hydrants as defined in subsection (1) of Section 1 of this Act. Funds used for this purpose shall be those distributed to the commission from the energy assistance trust fund. Commission funds shall be granted to counties for the cost of materials necessary for dry hydrant installation, and the counties shall contribute the labor and equipment necessary to installation.

(b) Counties shall demonstrate the capacity to install dry hydrants in compliance with National Fire Protection Association standards on water supplies for suburban and rural firefighting. The target cost per dry hydrant for materials shall be in the range of five hundred dollars ($500) to eight hundred dollars ($800). The commission may grant more than eight hundred dollars ($800) for a dry dydrant when topographic, soil, and water supply conditions justify the increased cost.

SECTION 3. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) In order to administer the dry hydrant cost sharing program authorized by KRS 146.110, the director of the Division of Soil and Water Conservation, in consultation with the state conservationist of the USDA Soil Conservation Service, shall assign each county to one (1) of six (6) areas. Each area shall be administered by a resource conservation and development representative, and each representative shall be responsible for twenty (20) counties.

(2) The resource conservation and development representative shall consult with the board of supervisors and the district conservationist of each soil conservation district in each county for which he is responsible, to develop a plan for installing dry hydrants in that county. The plan for each county shall be submitted to the fiscal court of that county to obtain the court's commitment to contribute labor and equipment for the installation of dry hydrants, and to supply funds for materials on a reimbursable basis.

(3) When the fiscal court commits the county to contribute labor and equipment, and to contribute funds for materials on a reimbursable basis, the resource conservation and development representative shall submit the county plan to the state association of resource conservation and development agencies for review. The state association shall determine which dry hydrants to fund and the dollar amount to be allocated for each dry hydrant. The state association shall then submit its recommendations to the director of the Division of Soil and Water Conservation.

(4) The director of the Division of Soil and Water Conservation shall review the recommendations of the state association. If the director approves, he shall notify the state association and the county that the commission will reimburse the county for approved material costs when the installation of the dry hydrant is complete. If the director does not approve a recommendation, he shall state his reasons for disapproval to the state association. Resource conservation and development representatives may work with soil conservation districts and fiscal courts to modify recommendations based on the comments of the director, and may submit amended recommendations through the state association.

(5) The director of the Division of Soil and Water Conservation shall reimburse a county for the approved cost of materials used to install a dry hydrant upon certification by the fiscal court that the installation is complete.

(6) Fifty percent (50%) of the funds distributed to the Soil and Water Conservation Commission in KRS 42.566(1)(a) shall be allocated in equal shares to each county in Kentucky for the installation of approved dry hydrants. The other fifty percent (50%) of the funds shall be apportioned among the counties for the installation of approved dry hydrants on the basis of the ratio that the county's public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2500) or more bears to the total mileage of such roads for the entire state. If a county does not submit a plan for dry hydrants by July 1, 1993, its share of funds to be distributed equally shall be added to the funds to be apportioned on the basis of road mileage. Funds not approved by June 30, 1994 for payment to counties shall be retained by the commission for payment to counties after that date.

Section 4. KRS 42.566 is amended to read as follows:

(1) The funds appropriated by the General Assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:

(a) The sum of five hundred thousand dollars ($500,000) or eight percent (8%) of the amount appropriated each fiscal year, whichever is greater, shall be distributed annually to the Natural Resources and Environmental Protection Cabinet for expenditure in the Institutional Conservation Program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. Section 6371 et seq. ***The sum of seven hundred and twenty thousand dollars ($720,000) shall be distributed during fiscal year 1992-1993, and again in fiscal year 1993-1994 to the Soil and Water Conservation Commission, Natural Resources and Environmental Protection Cabinet, for funding the installation of dry hydrants to reduce gasoline consumption devoted to water hauling by rural fire departments.*** The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the Cabinet for Human Resources and allocated as follows:

1. Forty percent (40%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. Section 6861 et seq.; and

2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. Section 8621 et seq.

The Committee Amendment No. 1 to **HB 219** is as follows:

Amend printed copy of **HB 219** on page 6, line 14, by deleting lines 14 through 26; and

by deleting pages 7 and 8 in their entirety.

HB 329, AN ACT relating to sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	$10.00
Serving an order of court and return	3.00
Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00

Taking any bond that he is authorized or required to take in any action 5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six percent (6%) on the first three hundred dollars ($300) and three percent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness 3.00

Levying an attachment 5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee 3.00

Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted 8.00

Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff ***20.00*** [~~10.00~~]

Serving an order or process of revivor 3.00

Executing a writ of possession against each tenant or defendant 7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses 8.00

Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill 3.00

Serving a notice 2.00

Serving summons, warrants or process of arrest in cases of children born out of wedlock 6.00

Serving each order appointing surveyors of roads, to be paid out of the county levy 5.00

Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant 5.00

Like services in cases of private passways to be paid by the applicant 5.00

Executing each writ of habeas corpus, to be paid by the petitioner 3.00

All services under a writ issued under KRS 381.460 to 381.570 10.00

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

HB 390, AN ACT relating to rescue squads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.700 is amended to read as follows:

(1) ***(a)*** Rescue squads may be formed and duly authorized to perform in the public interest. Authorization to operate within a jurisdiction may be granted by the chief elected official of each urban-county government, county, or city which the squad proposes to serve.

(b) Rescue squad taxing districts may be created pursuant to KRS 65.182 or 65.188. A district shall be eligible for grants pursuant to KRS 39.740 and workers' compensation coverage pursuant to KRS 39.770.

(c) Rescue squads shall have a formal affiliation with the local disaster and emergency services organization.

(2) A rescue squad shall be composed of at least twelve (12) active members and shall maintain at least one (1) vehicle dedicated to rescue service. Squads may operate in conjunction with a fire department, or may operate as a separate unit. ***Tax revenues of a rescue squad taxing district shall be used only for rescue services as described in this section and KRS 39.710 to 39.770.***

(3) Each squad shall develop and maintain bylaws and written procedures to specify, as a minimum, election, or appointment, succession, and term of officers; financial accounting; property accountability; and rules of notification and response to emergencies.

(4) Rescue squads shall contribute to public safety and welfare by performing functions which may include but not be limited to: removal of victims trapped in vehicles or structures; search for lost or missing persons, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; traffic control at an accident scene when requested by law enforcement authorities; providing assistance in the containment of spilled hazardous materials, when sufficient equipment and trained personnel are available to the rescue squad. Rescue squads shall not engage in law enforcement activities other than traffic control.

(5) The division shall administer funds appropriated for rescue equipment and training and shall promulgate administrative regulations to be applied to all rescue squads that apply for financial assistance.

(6) The term "rescue squad" shall mean any such organization which receives and accepts funds from the department of military affairs or any rescue squad where workers' compensation benefits are paid by the department of military affairs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) Rescue squad taxing districts may be created by the fiscal court pursuant to KRS 65.182 or 65.188.

(2) The ad valorem tax that may be imposed for the maintenance and operation of the district shall not exceed ten cents ($0.10) for each one hundred dollars ($100) of the assessed valuation of all property in the district.

(3) Upon the creation of a district, the district so established shall be a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

(4) The district ad valorem taxes shall be collected by the sheriff in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected by him for the district.

(5) The affairs of the district shall be controlled by a board of directors appointed by the county judge/executive with the approval of the fiscal court.

(a) If the district consists of one (1) county, three (3) directors shall be appointed;

(b) If the district consists of two (2) counties, the county judge/executive of the county having the greater portion of the population of the district shall appoint two (2) directors and the county judge/executive of the other county shall appoint the third director;

(c) If the district consists of more than two (2) counties, the county judge/executive of the county having the greatest portion of the population of the district shall appoint two (2) directors and the county judge/executive of the remaining counties comprising the district shall each appoint one (1) director;

(d) The legislative body of each city of the first three (3) classes, or if there is no such class of city, the city of the highest class located within the district shall appoint one (1) additional director.

(6) The board of directors shall be appointed within thirty (30) days after the establishment of the district. Each board member shall reside within the county or city for which he is appointed. Directors shall be appointed for terms of two (2) years each, except that initially the appointing authority shall appoint a minority of the board members for one (1) year terms. Subsequent terms shall all be for two (2) years. Any vacancies shall be filled by the appointing authority for the unexpired term.

(7) A majority of the membership of the board shall constitute a quorum.

(8) A member of the board of directors may be removed from office as provided by KRS 65.007.

(9) The board of directors shall provide rescue service to inhabitants of the district and shall have the authority to:

(a) Purchase vehicles and all other necessary equipment and employ trained personnel who meet all federal and state requirements;

(b) Adopt rules and regulations necessary to effectively and efficiently provide rescue service for the district. Rules and regulations shall be consistent with the provisions of KRS 39.700 to 39.770.

(c) Employ persons to administer the daily operations of the rescue service;

(d) Compensate employees of the district at a rate determined by the board;

(e) Apply for and receive available funds from the state and federal government for the purpose of maintaining or improving the rescue service of the district;

(f) Acquire by bequest, gift, grant, or purchase any real or personal property necessary to provide rescue service.

Section 3. KRS 65.060 is amended to read as follows:

As used in KRS 65.008, 65.009, 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.008, 65.009, 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS ***39.700,*** 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 74.010 to 74.416; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to 108.180; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 152.810 to 152.930; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 179.700 to 179.735; KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.453.

HB 408, AN ACT relating to public administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. The ***fiscal court may employ the jailer as superintendent of those county buildings, grounds, and other county properties agreed upon by the jailer and the fiscal court. Compensation for these additional services shall be in addition to the regular salary paid the jailer for performing the duties of the jailer. The total compensation of the jailer for his duties as superintendent and for his duties as jailer shall not exceed the limit set in KRS 64.527*** [~~county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate~~]. The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's residence if owned by the county, and to keep the jailer's residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 2. KRS 441.510 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) Except as provided in subsection (3) of this section, in all other cases the sheriff of the county where the prisoner is incarcerated shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In any county where there is no jail or the county operates a holdover jail, the fiscal court shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the circuit and district courts of the county as provided for in KRS 71.050. [~~The fiscal court may also require the jailer to serve as custodian of county buildings and grounds as provided for in KRS 67.130.~~]

Section 3. KRS 30A.060 is amended to read as follows:

(1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.

(2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.

(3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, ***any other bonded*** [~~additional~~] public officers [~~or employees~~] may [~~be authorized by rule or order of the Supreme Court to~~] prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

SECTION 4. A NEW SECTION OF KRS 431.510 TO 431.545 IS CREATED TO READ AS FOLLOWS:

If the jailer prepares or accepts a bail bond pursuant to KRS 30A.060(3), he shall collect a fee of five dollars ($5) from the defendant. The jailer shall furnish the defendant with a written receipt for the fee. By the tenth day of each month, the jailer shall:

(1) Report the previous month's bonding fees to the county treasurer; and

(2) Submit the previous month's bonding fees to the county treasurer for inclusion in the jail fund.

The Committee Amendment No. 1 to **HB 408** is as follows:

Amend printed copy of **HB 408** on page 4, by deleting lines 17 and 18 in their entirety; and by inserting in lieu thereof:

"With the approval of the fiscal court of the county in which the prisoner is incarcerated, the jailer may prepare or accept a bail bond pursuant to KRS 30A.060(3). In this case, he shall collect a fee of five"

HB 410, AN ACT relating to the management of prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Corrections Cabinet for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Corrections Cabinet with directions that the sentence be carried out according to law.

(4) The Corrections Cabinet shall develop a classification system, including procedures for review and reclassification, to assess the custody level of all Class D felons. The Corrections Cabinet shall classify each Class D felon within fourteen (14) days of conviction and review the classification at a minimum of every six (6) months, or with cause.

(5) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to a term of imprisonment, he shall, when the jailer determines that space is available, serve that term in a county jail, unless he has been sentenced to a regional correctional institution pursuant to KRS 532.070(2), or unless the classification or reclassification process indicates:

(a) That the felon has signed a request to serve time in a state prison;

(b) That the felon is classified other than minimum or medium security;

(c) That the felon is an escape risk;

(d) That the felon is dangerous to himself or others;

(e) That the felon has an out-of-state felony charge or conviction;

(f) That the jailer has reason to believe the felon would be a security risk; or

(g) That the felon needs protective custody beyond that which can be provided in the county jail.

(6) Class D felons, conditional releasees, and conditional parolees, serving their time in a local jail, shall be considered state prisoners, and the Corrections Cabinet shall pay the jail in which the prisoner is incarcerated a per diem of twenty-two dollars ($22) for minimum-security and twenty-six dollars ($26) for medium-security prisoners. For controlled-intake prisoners, the per diem shall begin the day judgment is rendered on the prisoner. For all others, including parole violators, felony probation violators and felony shock probation violators, the payment shall begin the day they are lodged in the jail.

(7) Controlled-intake prisoners, excluding the Class D felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing. All others, including parole violators, felony probation violators, and felony shock probation violators, shall be transferred to the state institution within forty-five (45) days from the day they were incarcerated in the county jail.

The Committee Amendment No. 1 to **HB 410** is as follows:

Amend printed copy of **HB 410** Page 2, line 24, by deleting "***of twenty-two dollars ($22) for***";

and by deleting line 24; and

on line 25 by deleting

"***medium-security prisoners.***"

and by substituting after "***diem***" on line 23 the following:

"***appropriate to the costs of maintaining minimum-security or medium-security prisoners, as the case may be.***"

HB 480, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.175 is amended to read as follows:

(1) When the water district desires to construct a water main which shall be primarily a transmission line and secondarily a line to serve customers along the water main, the commission may recommend to the court that the assessments be on a deferred basis. If the court determines that the water main is primarily a transmission main, and secondarily benefits the property owners abutting the water main, the court may provide that the assessments shall be on a deferred basis.

(2) In the event the assessments are on a deferred basis, they shall not be immediately due and payable until the benefit to the abutting property owners is realized either by a sale of the property or when the abutting property owner desires to tap into the water main, and at that time the deferred assessment shall be paid in full without interest. ***For a deferred assessment on which the district has not initiated collection action in the courts by the effective date of this Act, limitations on an action to collect shall not begin to run until the assessment is immediately due and payable as provided for in this subsection.***

(3) In the event a property owner who has a deferred assessment against his property sells only a portion of the property or desires water service for only a portion of the property, the deferred assessment shall be prorated and paid only for the portion being sold or for the reasonable area of property being served by the water main. The property owner shall be required to furnish to the commission a plat of the property being sold or the area which will be served with water, and no other area may be served from that service unless an additional portion of the deferred assessment is paid. ***For an additional portion of a deferred assessment on which the district has not initiated collection action in the courts by the effective date of this Act, limitations on an action to collect shall not begin to run until the additional portion is immediately due and payable because of further sale of the property or further extension of water service.***

(4) All remaining provisions of the assessment statutes shall apply to deferred assessments, except as same may be inconsistent with this deferred assessment provision.

Section 2. KRS 278.023 is amended to read as follows:

(1) The provisions of this section shall apply to any construction project undertaken by a water association, commission, district, or combined water, gas or sewer district formed under KRS Chapter 74 or 273, which [~~project~~] is financed in whole or in part under the terms of an agreement between the water utility and the U.S. farmers home administration or the U.S. department of housing and urban development. Because federal financing of such projects entails prior review and oversight by the federal agency and obligates the utility to certain actions, and because conflicting requirements by the federal agency and the public service commission may place the water utility in an untenable position and delay or jeopardize such projects, it is declared to be the policy of the Commonwealth that such agreements shall be accepted by the public service commission, and that the commission shall not prohibit a water utility from fulfilling its obligations under such an agreement.

(2) No agreement between a water utility and federal agency under this section shall take effect until thirty (30) days after such agreement, together with necessary applications and documentation, is filed with the commission, unless the commission acts within a lesser time. The commission in its administrative regulations shall list the specific documents required to be filed under this subsection.

(3) The commission shall review the project and the agreement, may recommend changes to the utility and the federal agency, but shall not modify or reject any portion of the agreement on its own authority. The commission shall issue a certificate of necessity and convenience and such other orders as may be required to implement the terms of the agreement no later than thirty (30) days after filing.

(4) The commission shall not prohibit the inclusion of any cost or the use of any accounting procedure in reviewing or setting the rates of the utility if such cost or procedure is required as a condition for federal financing of a construction project under an approved agreement between the water utility and federal agency.

(5) If the federal agency approves a surcharge to the water bills of customers who receive service through an extension of water facilities under this section, which is in lieu of an assessment against the customer for the cost of the extension, then the Public Service Commission shall allow collection of the surcharge to continue for the period of years for which the surcharge was established.

Section 3. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) If a district lies wholly within a single county, or operates as a single-county district as provided in paragraph (c) of this subsection, the board of commissioners shall be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. In the event of a merger of water districts as described in KRS 74.361, the county judge/executive may appoint up to two (2) additional commissioners with the approval of the fiscal court. Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court.

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges/executive with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single-county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) A commissioner may be removed from office as provided by KRS 65.007.

(3) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(4) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county judge/executive, conditioned on the faithful performance of the duties of his position.

(5) Each commissioner shall receive an annual salary of not more than ***six thousand dollars ($6,000)*** [~~thirty-six hundred dollars ($3600)~~], which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multi-county districts it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district, and its ability to meet its obligations as they mature.

HB 505, AN ACT relating to jailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 71.060 is amended to read as follows:

(1) The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer.

(2) The jailer shall be responsible for the appointment and removal of jail personnel. [~~provided, however, that~~] The number of jail personnel shall be set by the fiscal court in the jail budget. ***The jailer may dismiss his deputies at any time with cause.*** The fiscal court shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.055.

The Committee on Economic Development reported **HB 343** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 343, AN ACT relating to local industrial development authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.860 is amended to read as follows:

(1) The members of the authority shall be appointed as follows:

(a) If the authority is established by a city, ***the*** [~~such~~] member shall be appointed by the mayor of the city;

(b) If the authority is established by a county, ***the*** [~~such~~] member shall be appointed by the county judge/executive;

(c) If the authority is established as a joint city-county industrial development authority, three (3) members shall be appointed by the mayor and three (3) members by the county judge/executive;

(d) If a combination of cities and/or counties establishes a joint industrial development authority, the mayors and/or county judges/executive involved shall jointly choose six (6) members, and shall jointly choose successors.

(2) Members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified.[~~, provided, however, that~~] Initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(3) An industrial development authority member may be replaced by the appointing authority upon a showing to ***the*** [~~such~~] appointing authority of misconduct as an authority member or upon conviction of a felony. [~~No authority member shall hold any official office with the appointing authority.~~]

The Committee on Education reported **HB 303**, with Committee Substitute attached thereto, **HB 327**, **HB 488**, **HCR 22**, with Committee Amendment and Committee Substitute attached thereto, **SB 15**, **SB 61** and **SB 95** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 303, AN ACT relating to pupil transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.280 is amended to read as follows:

(1) If the number of children of school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved by the State Board for Elementary and Secondary Education for that exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of school age is admitted for resident instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.170, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at [~~weekly~~] intervals ***of no less than twice each month*** while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer.

(4) If a child of school age is admitted as a day school pupil for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.150, the district in which the child resides may provide transportation to and from the school on a daily basis, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer. School districts providing this transportation shall be reimbursed from the transportation fund of the foundation program at the same rate per trip as that which is calculated under subsection (3) of this section.

The Committee Substitute to **HB 303** is as follows:

HB 303, AN ACT relating to pupil transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.280 is amended to read as follows:

(1) If the number of children of school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality, the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved by the State Board for Elementary and Secondary Education for that exceptionality. When a district or private organization undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of residence of these pupils shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts or district and private organization.

(2) The school board of the school district in which any child resides shall pay for his transportation to and from the program in the other school district or to the private organization. However, if the school board of the other district or the private organization providing the program also provides transportation, the cost of transportation shall be included in the total cost.

(3) If a child of school age is admitted for resident instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.170, the district in which the child resides shall provide transportation to and from the school on a regularly scheduled basis, at weekly intervals while the child is enrolled, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer. ***Students who live more than two hundred (200) miles from either school shall not be required to go home more than twice each month. The State Board for Elementary and Secondary Education shall promulgate administrative regulations to set forth the transportation schedule and the weekend activities for students who remain at school. If alternate modes of transportation are utilized, the district providing the transportation shall be reimbursed for costs which exceed the allocated costs calculated for normal ground transportation by the Department of Education.***

(4) If a child of school age is admitted as a day school pupil for instruction at the Kentucky School for the Deaf or the Kentucky School for the Blind, under regulation of the State Board for Elementary and Secondary Education and under provisions of KRS 167.015 to 167.150, the district in which the child resides may provide transportation to and from the school on a daily basis, either by individual district or in cooperation with other school districts on a regional basis, as approved by the State Board for Elementary and Secondary Education upon recommendation of the chief state school officer. School districts providing this transportation shall be reimbursed from the transportation fund of the foundation program at the same rate per trip as that which is calculated under subsection (3) of this section.

HB 327, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as ***a principal,*** [~~an~~] assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

HB 488, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall adopt administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be adopted for the following:

(a) Courses of study for the different grades and kinds of common schools, including procedures for developing an ungraded primary program which shall be implemented by the beginning of the 1992-93 school year. ***The courses of study for students shall include American sign language and it shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law***;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. Such regulations shall permit a student who received a physical examination no more than six (6) months prior to his initital admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local school council, any local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

When a course in American sign language is offered by a state university or community college, it shall be accepted as meeting any foreign language requirements. Successful completion of any American sign language course in the common schools shall satisfy the foreign language entrance requirements for a state institution of higher education.

HCR 22, A CONCURRENT RESOLUTION strongly urging the Kentucky Commissioner of Education to reimplement the Parenting and Family Life Skills Education Model Curriculum on a statewide basis.

WHEREAS, nine thousand four hundred and thirty eight births were reported to teenage mothers in Kentucky during 1990, the most recent year for which figures are available; and

WHEREAS, teen birth rates grew 5.5 % from 1988 to 1989; and

WHEREAS, Kentucky ranks fourth in the nation in the percentage of all births to teenage mothers; and

WHEREAS, almost all teen mothers drop out of school and only about half of those are able to return and continue their education; and

WHEREAS, approximately half of these nine thousand four hundred and thirty eight teen mothers were unwed at the time they gave birth; and

WHEREAS, national studies show that as many as four out of five children in homes headed by single mothers under age twenty-two live in poverty; and

WHEREAS, about four thousand teenage mothers in Kentucky currently rely on AFDC and food stamp benefits totalling over $18 million annually; and

WHEREAS, inadequate parenting skills has been cited by the Department for Social Services as the leading contributing factor in incidences of child abuse; and

WHEREAS, the incidence of gonorrhea among the teenage population rose an alarming 12.2% from 1989 to 1990, the latest year for which figures are available; and

WHEREAS, nationally, the HIV infection rate is growing faster among the teenage population than any other age group of our population;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky Commissioner of Education reimplement the Parenting and Family Life Skills Education Model Curriculum on a statewide basis, and mandate that each local school district adopt the curriculum for use in all public schools.

Section 2. That a copy of the resolution be transmitted to the Kentucky Commissioner of Education, and the members of the Kentucky State Board for Elementary and Secondary Education, and the Kentucky Superintendent of Public Instruction.

The Committee Title Amendment to **HCR 22** is as follows:

Amend printed copy of **HCR 22** by amending the title to read: "A CONCURRENT RESOLUTION encouraging local schools to provide instruction in parenting and family life skills as to further the student's mental and physical wellness."

The Committee Substitute to **HCR 22** is as follows:

HCR 22, A CONCURRENT RESOLUTION strongly urging the Kentucky Commissioner of Education to reimplement the Parenting and Family Life Skills Education Model Curriculum on a statewide basis.

WHEREAS, the Kentucky Supreme Court in ***Rose v. Council for Better Education, Inc.***, stated that all students have the right to achieve certain capacities through their educational experience; and

WHEREAS, the General Assembly agreed with the Supreme Court by incorporating these capacities in the Kentucky Education Reform Act of 1990; and

WHEREAS, the Kentucky Education Reform Act of 1990 was based on the philosophy that the professional staff members and the parents of each school should determine the curriculum, teaching methods, and instructional materials needed to meet the outcomes and standards set by the General Assembly and the State Board for Elementary and Secondary Education; and

WHEREAS, the capacities require that students have the knowledge to make economic, social, and political choices and that they have sufficient knowledge of their mental and physical wellness; and

WHEREAS, prior to the Kentucky Education Reform Act, the State Board for Elementary and Secondary Education adopted a model curriculum for parenting and family life skills that the local school districts had begun implementing; and

WHEREAS, that curriculum has been nationally recognized as a comprehensive and reasonable approach for providing students with the knowledge they need to make appropriate social and health choices;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Commissioner of Education and the staff members of the Department of Education review the Parenting and Family and Life Skills Model Curriculum for inclusion in the curriculum frameworks.

Section 2. That local school districts and schools consider using the Parenting and Family Life Skills Model Curriculum until the new curriculum frameworks are completed, at which time the model curriculum and curriculum frameworks shall be compared to determine the best approach for helping students reach their capacities.

Section 3. That at least one (1) month prior to instruction in human sexuality education in any classroom, all instructional material to be used in the course, including materials such as films, audiovisuals, and all recommended readings, shall be made available at the school for reviewing by parents and guardians. The school shall publicize the availability of the materials for viewing by parents and guardians.

Section 4. That the local board of education shall establish a procedure whereby the parent or guardian of any student in kindergarten to sixth grade must submit a signed statement to the principal giving specific permission for the child to participate in any instruction in the teaching of parenting education and family life skills.

Section 5. That for students in grades seven (7) to twelve (12), the parent or guardian must submit a signed statement to the principal requesting the student be exempt from this instruction if the parent or guardian wishes to have the student exempted. In the event this request is submitted, alternate instruction shall be provided for the student. In addition, instructional materials shall be provided for parents or guardians wishing to instruct their children in areas covered by the provisions of this section.

Section 6. That the district plan for parenting and family life skills shall be reviewed and approved by the local superintendent, the local school board, and the department of education.

Section 7. That no condoms or other contraceptive shall be distributed or sold in any school covered by this section, except within a school specifically designed for the education of pregnant or parenting students.

Section 8. That a copy of the Resolution be transmitted to the State Board for Elementary and Secondary Education, the Commissioner of Education, and the board of education of each local school district.

SB 15, AN ACT relating to earthquake preparedness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The board of each local school district, and the governing body of each private and parochial school or school district shall establish an earthquake emergency procedure system in every public or private school building in its jurisdiction having a capacity of fifty (50) or more students, or having more than one (1) classroom. The earthquake emergency procedure system shall include, but not be limited to, all of the following:

(1) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs.

(2) A drop procedure. As used in this section, "drop procedure" means an activity by which each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least twice during each school year.

(3) Protective measures to be taken before, during, and following an earthquake.

(4) A program to ensure that the students and the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

SB 61, AN ACT relating to the licensing of colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.945 is amended to read as follows:

As used in KRS 164.945 to 164.947, unless the context otherwise requires:

(1) ***(a)*** "College" means any educational facility or institution maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, junior college, college, university, or entity of whatever kind which awards a degree, diploma, or other statement of recognition purporting to indicate a level of collegiate attainment beyond secondary school graduation. ***This definition includes private colleges located in Kentucky, private colleges located outside of Kentucky but which operate in Kentucky, and public colleges located outside of Kentucky but which operate in Kentucky.***

(b) The term "college" does not include state-supported colleges and universities authorized by KRS 164.100, 164.290, 164.580, and 164.810, nor does it include [~~The following shall be excluded from this definition as it applies to the licensing and regulation requirements of KRS 164.945 to 164.947:~~

~~(a) Colleges provided, operated, and supported by federal, state, or county government or any of their political subdivisions.~~

~~(b)~~] colleges licensed or approved for establishment and operation under the statutory authority given to the Kentucky Board of Barbering under KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists under KRS 317A.030, the [~~Kentucky~~] State Board of ***Proprietary Education*** [~~Business Schools~~] under KRS ***165A.340 or*** [~~165A.310,~~] the ***State*** [~~Kentucky~~] Board of Nursing [~~Education and Nurse Registration~~] under KRS 314.121[~~, and any statutes governing the proprietary schools~~].

(2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers or words, such as, but not limited to, associate, bachelors, masters, doctorate, or fellow, which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.

(3) "Diploma" means a certificate, transcript, report, document, or title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports, or is generally taken to signify attendance, progress, or achievement in an academic program.

SB 95, AN ACT relating to state officers, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.910 is amended to read as follows:

(1) The state board shall be composed of the following members:

(a) The secretary of the Cabinet for Human Resources, the secretary of Finance and Administration Cabinet, the ***chief state school officer*** [~~Superintendent of Public Instruction~~], the commissioner of the State Police, and the Attorney General, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 2. KRS 17.470 is amended to read as follows:

(1) Upon receipt of a report of a missing child who was born in the Commonwealth, the Justice Cabinet, through the Kentucky Missing Child Information Center, shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child.

(2) If the Justice Cabinet has reason to believe that a missing child has been enrolled in a specific Kentucky elementary or secondary school, it shall notify the ***chief state school officer*** [~~Superintendent of Public Instruction~~] who shall notify the last such known school as to the child's disappearance.

(3) Upon learning of the recovery of a missing child, the Justice Cabinet shall notify the state registrar and the ***chief state school officer*** [~~Superintendent of Public Instruction~~] who shall notify any school previously notified of the child's disappearance.

Section 3. KRS 43.050 is amended to read as follows:

(1) The Auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the General Assembly to provide for the independent auditing of the accounts and financial transactions of all spending agencies of the state through a disinterested Auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The Auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records, and transactions of the budget units, and the general accounts of the state.

(b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when an audit is demanded in writing by the Legislative Research Commission, the secretary of the Finance and Administration Cabinet or the Governor, and may make an audit when it is not so demanded.

(c) Examine annually the management, conduct and condition of all asylums, prisons, institutions for the mentally retarded, and eleemosynary institutions and public works owned, operated, or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power, giving special attention to the faithful and economical application of any money appropriated by the state to the institution or public works examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the Finance and Administration Cabinet, the State Treasurer and the ***chief state school officer*** [~~Superintendent of Public Instruction~~], to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) Examine, at least biennially, the Finance and Administration Cabinet's compliance with KRS 56.800 to 56.823 and this section, KRS 48.111, and KRS 48.190. Within sixty (60) days of the completion of each examination, the Auditor shall report his findings and recommendations to the Capital Projects and Bond Oversight Committee.

(f) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make the collections.

(g) Make special audits and investigations when required by the Governor.

(h) Investigate the means of accounting for, controlling and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(i) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each branch budget recommendation, and certify in writing the results of the audit and examination with the comments he deems necessary for the information of the General Assembly, his certificate and comments to be included with the statements and estimates as presented in the branch budget recommendation.

(j) Report immediately in writing to the Governor, each member of the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular, or unsafe handling or expenditure, of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure or practice is contemplated, and any obstruction of the Auditor or his agents during the conduct of any audit or investigation of a state agency.

(k) Assist the Legislative Research Commission at hearings and investigations conducted by it and cooperate with the Legislative Research Commission in the preparation of its reports to the General Assembly.

(l) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and the accounts he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The Auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect, or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The Auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of the funds or property in the course of the audits provided for in this section.

Section 4. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the executive director of the Council on Higher Education;

(c) The executive director of the Council on Higher Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The ***chief state school officer*** [~~Superintendent of Public Instruction~~] or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) One (1) representative of local governments to be appointed by the Governor; and

(k) Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(i) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 5. KRS 64.480 is amended to read as follows:

(1) Effective, with respect to the offices of Governor on December 11, 1979, and Lieutenant Governor on the fifth Tuesday following the regular November election in 1975, and with respect to the other offices named in this section on the first Monday in January, 1976, the compensation of the following named officers, payable monthly out of the State Treasury, shall be the sum per annum designated for the respective offices, as follows: Governor, forty-five thousand dollars ($45,000) until December 11, 1981, then fifty thousand dollars ($50,000) until December 13, 1983, and then sixty thousand dollars ($60,000) until January 1, 1985; Lieutenant Governor, an amount sufficient, when added to any per diem received during sessions of the General Assembly while serving in the capacity of President of the Senate, to equal twenty-seven thousand nine hundred dollars ($27,900) per annum, plus any compensation received while acting in the place of the Governor; Attorney General, [~~Superintendent of Public Instruction,~~] Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and clerk of the Supreme Court of Kentucky elected in November, 1975, as clerk of the Court of Appeals, twenty-seven thousand nine hundred dollars ($27,900).

(2) In order to equate or adjust the compensation of the Lieutenant Governor, Attorney General, [~~Superintendent of Public Instruction,~~] Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and clerk of the Supreme Court of Kentucky with the purchasing power of the 1949 dollar, the Department of Local Government of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in this subsection based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W.2d 139 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.

(3) It is the intention of the Legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when Section 246 of the Constitution of Kentucky was amended. Section 246 of the Constitution of Kentucky, as amended, established a monetary level of twelve thousand dollars ($12,000) per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current consumer price index.

(4) In order to adjust the compensation of the Governor to reflect changes in the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year, beginning in 1985, an adjusted salary of the Governor by multiplying sixty thousand dollars ($60,000) by the increase in the consumer price index during the period from January 1, 1984, to the beginning of the then-current calendar year. The actual compensation paid to the Governor for the entire calendar year of 1985 and subsequent years shall be the adjusted salary.

Section 6. KRS 65.944 is amended to read as follows:

(1) (a) Without first notifying the state local finance officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms

of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and such other information the state local finance officer may require. The state local finance officer may prescribe a form for providing the information required by this paragraph.

(b) In addition to the notification required by this subsection, no county, except an urban-county, shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local finance officer. The state local finance officer may prescribe procedures and adopt regulations for granting approval of the leases.

(c) In addition to the notification required by this subsection, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the ***chief state school officer*** [~~Superintendent of Public Instruction~~]. The ***chief state school officer*** [~~Superintendent of Public Instruction~~] shall recommend administrative regulations to the State Board of Education for implementation of KRS 65.940 to 65.956.

(2) The state local finance officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance.

Section 7. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission" which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of sixteen (16) members, residents of the State of Kentucky, appointed by the Governor. ***The*** [~~Such~~] members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) It is recommended that the membership of the commission include:

(a) Two (2) volunteer firemen;

(b) Two (2) paid firefighters;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer fireman;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed and practicing physician;

(f) One (1) teacher or administrator of vocational education;

(g) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(h) One (1) mayor of a Kentucky city;

(i) One (1) county judge/executive;

(j) One (1) representative of Kentucky industry or business enterprise; and

(k) One (1) representative of the general public.

The ***chief state school officer*** [~~Superintendent of Public Instruction~~] and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years, provided, however, that of the members first appointed, five (5) shall be appointed for a term of two (2) years, four (4) for a term of three (3) years, and four (4) for a term of four (4) years. After July 15, 1980, any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 8. KRS 164.027 is amended to read as follows:

(1) The Council on Higher Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. ***The*** [~~Such~~] contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of ***the*** [~~such~~] college; provided however, that ***the*** [~~such~~] persons shall be ***classified as residents according to council administrative regulations*** [~~certified to the council as to status of residency by the state superintendent of public instruction~~] and shall be eligible for admissions to ***the*** [~~said~~] junior college.

(2) The Council on Higher Education shall pay to the college not more than two hundred dollars ($200) per school year for each [~~such~~] student enrolled. ***The*** [~~Such~~] payments shall be additional to the annual tuition fees paid by each [~~such~~] student. The council shall have authority to provide by contract that it pay the expense of specific research projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it.

Section 9. KRS 164.050 is amended to read as follows:

The members of the council shall receive sixty-five dollars ($65) per day for each council meeting attended and shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council. Each institution shall pay the expenses of its own representatives. The expenses of the ***chief state school officer*** [~~members of the State Board for Elementary and Secondary Education and of the superintendent of public instruction~~] shall be paid by the state in the same manner as ***his*** [~~their~~] other traveling expenses are paid.

Section 10. KRS 164.330 is amended to read as follows:

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. [~~The place of meeting shall be designated by the superintendent of public instruction.~~] At this meeting there shall be elected a vice-chairman and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses. The expenses shall be paid out of the funds of the university or college.

Section 11. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the ***chief state school officer*** [~~Superintendent of Public Instruction~~], or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the executive director of the Council on Higher Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet, or the commissioner of the Department for Existing Business and Industry, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 12. KRS 347.040 is amended to read as follows:

(1) The secretaries of the cabinet for human resources and the education and humanities cabinet and the ***chief state school officer*** [~~superintendent of public instruction~~] shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the legislative research commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 13. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large (except the Governor**,** [~~and~~] Lieutenant Governor ***and the Superintendent of Public Instruction***), the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal thereof with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary of economic development	10,000
Commissioner of Agriculture	10,000
Secretary for Education and the Humanities	10,000
[~~Superintendent of Public Instruction~~	~~50,000~~]
Auditor of Public Accounts	25,000
Clerk of Court of Appeals	10,000
Adjutant General	10,000
Secretary of Finance and Administration	100,000

Secretary of Revenue	50,000
Secretary of Transportation	50,000
Commissioner of Highways	50,000
Secretary of Justice	50,000
Secretary of Corrections	25,000
Commissioner for Health Services	10,000
Secretary of Labor	5,000
Commissioner of Surface Mining, Reclamation and Enforcement	50,000
State Librarian	5,000
Commissioner of Mines and Minerals	5,000
Commissioner of Alcoholic Beverage Control	10,000
Commissioner of Financial Institutions	25,000
Secretary for Natural Resources and Environmental Protection	10,000
Commissioner of Insurance	50,000
Commissioner of Vehicle Regulation	10,000
Commissioner of Fish and Wildlife Resources	5,000
Secretary for Human Resources	20,000
Commissioner for Environmental Protection	10,000
Secretary for Public Protection and Regulation	10,000
Commissioner for Social Insurance	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of Local Government	100,000

Section 14. KRS 156.120 is amended to read as follows:

[~~(1)~~] The ***duties of the Superintendent of Public Instruction shall be to act as a citizen advocate for elementary and secondary education and to perform other duties as may be assigned to him by the Secretary of the Education and Humanities Cabinet. The office of Superintendent of Public Instruction shall not require any administrative support for the office including space or staff. He shall receive a salary of three thousand dollars ($3,000) per annum and shall be reimbursed for all actual and necessary expenses and disbursements incurred or made by him in the performance of his duties as assigned by the Secretary of the Education and Humanities Cabinet, but the amount spent shall not exceed the amount appropriated in the biennial budget*** [~~Superintendent of Public Instruction shall keep his office at the capital in such public buildings as may be provided. Until the close of business on December 31, 1990, he shall devote his entire time to the duties of his office.~~]

~~(2) He shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred or made by him in the performance of his official duties, and no part of the reimbursement shall be included in or accounted as a part of his salary, but in no case shall the amount spent exceed the amount appropriated in the biennial budget. Effective January 6, 1992, the salary of the Superintendent of Public Instruction shall be three thousand dollars ($3,000)~~].

Section 15. Whereas it is critical that the chief state school officer represent the interests of elementary and secondary education on certain boards and commissions established by law, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Labor and Industry reported **HB 187**, with Committee Substitute attached thereto, and **HB 457** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to boilers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;

(b) Boilers or pressure vessels located at any oil refineries;

(c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

(d) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families;

(f) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;

(g) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;

(h) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;

(i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;

(j) Single wall pressure vessels having an inside diameter of six (6) inches;

(k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;

(l) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. Water temperature of two hundred ten (210) degrees Fahrenheit;

3. Water storage capacity of one hundred twenty (120) gallons;

(m) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one of the following is exceeded:

1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;

2. Six (6) gallon water containing capacity;

3. Three hundred fifty (350) degrees Fahrenheit water temperature;

(n) Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. A water temperature of two hundred ten (210) degrees Fahrenheit;

3. A water containing capacity of one hundred twenty (120) gallons;

(o) Pressure vessels which may be classified as:

1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or

2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.

(p) Steam boilers on locomotives used only on railroads operating as tourist attractions.

The Committee Substitute to **HB 187** is as follows:

HB 187, AN ACT relating to boilers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:

(a) Boilers or pressure vessels located on farms and used solely for agricultural purposes;

(b) Boilers or pressure vessels located at any oil refineries;

(c) Boilers or pressure vessels located at any utility operating under a certificate issued pursuant to KRS 278.020, if the boilers or pressure vessels are inspected by a special boiler inspector under the provisions of KRS 236.110, except that the inspection interval provided for in KRS 236.110 shall be extended to eighteen (18) months;

(d) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(e) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families;

(f) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;

(g) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;

(h) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;

(i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;

(j) Single wall pressure vessels having an inside diameter of six (6) inches;

(k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;

(l) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. Water temperature of two hundred ten (210) degrees Fahrenheit;

3. Water storage capacity of one hundred twenty (120) gallons;

(m) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one of the following is exceeded:

1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;

2. Six (6) gallon water containing capacity;

3. Three hundred fifty (350) degrees Fahrenheit water temperature;

(n) Water heaters which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:

1. Heat input of two hundred thousand (200,000) BTU/Hr.;

2. A water temperature of two hundred ten (210) degrees Fahrenheit;

3. A water containing capacity of one hundred twenty (120) gallons;

(o) Pressure vessels which may be classified as:

1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations or stresses are derived from the functional requirements of the device; or

2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system.

(p) Steam boilers on farm tractors that have steam engines and which are used only in parades or other public tourist events, and on which there are no passengers, except the driver of the steam engine farm tractor.

HB 457, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.090 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of a worker's benefit year. However, if an individual lacks sufficient base-period wages because of a job-related injury, and he has received or was eligible to receive workers' compensation, upon written application by the claimant an extended base period will be substituted for the current base period on a quarter-by-quarter basis as needed to establish a valid claim or to increase the benefit rate of a claim if:

(a) The individual did not earn wages because of a job-related injury for at least seven (7) weeks of each base period quarter to be substituted by an extended base period quarter;

(b) No later than one (1) month prior to the expiration of workers' compensation benefits, the employer or carrier shall inform, orally and in writing, all recipients of their potential eligibility for unemployment insurance, and also provide a statement verifying the individual's eligibility for workers' compensation; and

(c) A claim for unemployment insurance compensation is filed no later than the fourth week of unemployment after the end of the period of injury compensated or eligible to be compensated by workers' compensation.

(2) "Extended base period" means the four (4) quarters prior to the claimant's base period. These four (4) quarters may be substituted for base-period quarters on a quarter-for-quarter basis in order to establish a valid claim or increase the benefit rate of a valid claim regardless of whether the wages have been used to establish a prior claim, except wages ***transferred to or from another state under a*** [~~earned as a member of the armed forces or wages reportable to another state and transferred under the~~] combined wage agreement will be excluded if used in a prior claim. Benefits paid on the basis of an extended base period, which would not otherwise be payable, shall be charged to the pooled account.

(3) "Benefit year" for any worker means the fifty-two (52) week period beginning with the first day of the week with respect to which he first requests a determination which establishes his status as a fully insured worker after the termination of his last preceding benefit year, if any, except that the last preceding benefit year shall be a fifty-three (53) week period if fifty-two (52) weeks would result in the overlapping of any calendar quarter of the base period of the new benefit year with the same calendar quarter of the base period of the previous benefit year. As used in this subsection, a worker shall be considered as having insured status, without regard to any other provision of this chapter, if at the time of his request he has satisfied the conditions required under subsection (5) of KRS 341.350.

(4) "Base-period wages" means the wages paid to a worker during his base period by subject employers for covered employment. The secretary, upon request of the employee, with respect to this subsection, shall consider wages payable to mean wages paid in order to prevent inequities caused by employer failure to meet a regularly scheduled payday. Lump-sum payments deemed to be wages under this chapter shall be reallocated to periods covered by the payments.

Section 2. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the department in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

(b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or

(c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

(d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

(4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a result of departmental error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.

(5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(6) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the immigration and nationality act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.

Section 3. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States department of labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States department of labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, ***or if he has received benefits in weeks for which he later receives a back pay award,*** shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the department for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in subsection (2)

of KRS 341.300 for collection of past due contributions and any sums so collected shall be credited to the pooled account. Unless there has been a false statement, misrepresentation, [~~or~~] concealment of material information***, or an award of back pay,*** by a recipient of benefits, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter, if the benefit was paid as a result of departmental error. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of departmental error.

(2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in subsection (3) of KRS 341.300.

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2) and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.

(6) ***Except for benefit overpayments resulting from back pay awards,*** the deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter. The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 4. KRS 341.420 is amended to read as follows:

(1) The secretary shall appoint one (1) or more impartial referees according to KRS 341.125 to hear and decide appealed claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within fifteen (15) days after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the secretary, or a decision of a referee, the secretary or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within fifteen (15) days after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

(5) No finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation under this chapter may be conclusive or binding in any separate or subsequent action or proceeding in another forum, except proceedings under this chapter, regardless of whether the prior action was between the same or related parties or involved the same facts.

Section 5. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. ***Except in cases involving awards to a worker by an arbitrator, the National Labor Relations Board, court, other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Division of Unemployment Insurance prior to paying any back pay award*** [~~, or withhold funds based upon benefits paid under this chapter from awards granted to a worker by an arbitrator or the national labor relations board of additional pay, back pay, or for loss of employment, or require or accept any waiver by a worker of any right hereunder~~].

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary or his representatives. Any worker claiming benefits in any proceeding before the commission may represent himself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392.

The Committee on Tourism Development and Energy reported **HB 161**, with Committee Substitute attached thereto, **HB 200**, with Committee Substitute attached thereto, and **HB 238** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 161, AN ACT relating to billboards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.841 is amended to read as follows:

[~~(1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within 660 feet of the right of way of any interstate highway or federal-aid primary highway is prohibited.~~

~~(2)~~] The erection or maintenance of any advertising device located outside of an urban area and beyond 660 feet of the right-of-way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:

(1)[~~(a)~~] Directional and official signs and notices;

(2)[~~(b)~~] Signs advertising the sale or lease of property upon which they are located; or

(3)[~~(c)~~] Signs advertising activities conducted on the property on which they are located.

Section 2. KRS 177.842 is amended to read as follows:

KRS 177.830(10) in conjunction with the prohibition of KRS 177.841[~~(2)~~] shall extend to all applicable outdoor advertising devices erected after January 1, 1976, unless previously determined by a court of competent jurisdiction to be in compliance with the laws, regulations, and rules governing outdoor advertising devices or were situated in an area which was authorized by an existing or previous statute.

Section 3. KRS 177.865 is amended to read as follows:

(1) The commissioner of highways shall prescribe by regulation a state signing policy on installation of advertising services defined in KRS 177.860(5). This policy shall restrict the use of said signs to limited access highways of four (4) lanes or more, conform to the Federal Highway Administration's standards for specific information signs and shall, as a minimum, include criteria for:

(a) Distances to eligible services;

(b) Selection of eligible businesses;

(c) Use of business signs and legends conforming to Federal Highway Administration size provisions at intersections on expressways;

(d) Removing or covering business signs during off seasons for businesses operated on a seasonal basis;

(e) Defining the circumstances in which specific information signs may be used outside rural areas; and

(f) Determining the costs to businesses for initial installation, annual maintenance, and removal of business signs.

(2) ***The commissioner of highways shall promulgate administrative regulations, pursuant to KRS Chapter 13A, that adopt the exemption of the 1958 Federal Highway Bonus Act, Public Law 85-381, known as the Cotton Amendment*** [~~Adoption of this section and KRS 177.860 shall in no way preclude or prevent the erection of highway advertising on exempted right-of-way as provided in Public Law 85-381~~].

The Committee Substitute to **HB 161** is as follows:

HB 161, AN ACT relating to billboards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

It is declared to be the intent of the General Assembly that Kentucky adopt the exemption of the 1958 Federal Highway Bonus Act, Public Law 85-381, known as the Cotton Amendment, to promote tourism and to attract motorists to designated tourist attractions in Kentucky.

SECTION 2. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

Advertising devices erected on exempted areas, which promote businesses within one hundred (100) air miles of an exempted area, and which comply with administrative regulations promulgated by the commissioner of the Department of Highways, pursuant to KRS Chapter 13A, that are located within six hundred sixty (660) feet of the right of way of an interstate highway in zoned or unzoned commercial or industrial areas shall not constitute a violation of any other statute relating to outdoor advertising. The commissioner of the Department of Highways shall prescribe by administrative regulation, pursuant to KRS Chapter 13A, the number of exempted areas eligible for outdoor advertising under KRS 177.830 to 177.890. In promulgating these administrative regulations, the commissioner shall consider, but not be limited to, the following criteria:

(1) Distance between areas exempted pursuant to KRS 177.830 to 177.890;

(2) Location of exempted areas to promote businesses within one hundred (100) air miles of an eligible exempted area;

(3) Spacing of advertising devices within each exempted area;

(4) Preservation of scenic beauty; and

(5) Impact of the number of exempted areas upon federal bonus payments made to the Commonwealth.

SECTION 3. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The commissioner of the Department of Highways shall have complete discretion in the promulgation of administrative regulations, pursuant to KRS Chapter 13A, and the issuance of permits under KRS 177.830 to 177.890 and shall consider the impact on federal highway funding with regard to all regulations and permits.

SECTION 4. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The commissioner of the Department of Highways may promulgate administrative regulations, pursuant to KRS Chapter 13A, relating to an annual permit fee up to six hundred dollars ($600) for each outdoor advertising device permitted in Kentucky. The authority to prescribe permit fees shall not apply to allowed on-premise signs.

SECTION 5. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 177.830 to 177.890 shall preclude any local government from enacting ordinances under its own authority that prohibit or are more restrictive than outdoor advertising permitted under Section 2 of this Act.

Section 6. Sections 1 to 5 of this Act shall become effective on January 1, 1993.

HB 200, AN ACT relating to oil and gas production reporting, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.190, the Revenue Cabinet shall, on or before September 1 of each year, beginning in 1993, make available to the Kentucky Geological Survey the following information from oil and gas production reports:

(a) From the annual reports required under KRS 132.220 of each first purchaser of natural gas, the quantity of natural gas production reported for each lease or, if available, for each well;

(b) From the annual reports required under KRS 132.220 of each purchaser or transporter of crude oil, the quantity of crude oil production reported for each lease or, if available, for each well;

(c) The identity of each lease or well for which production is reported including, if available, the operator name, lease or farm name, identification or lease number, county, field, and Carter Coordinate for each production reporting unit.

(2) The Kentucky Geological Survey shall organize the information it receives from the Revenue Cabinet into a standard format, and shall release it for public use no earlier than January 1 nor later than March 1 of the following year. The information shall be open for public use at the offices of the Kentucky Geological Survey, and available for sale in published form from the Geological Survey. The Kentucky Geological Survey may use the production information in ongoing research as soon as it is obtained from the Revenue Cabinet, so long as this does not make the information public before January 1 of the year after it is reported.

(3) The Revenue Cabinet shall make available to the Geological Survey the oil and gas production data specified in subsection (1) of this section which was reported in years prior to 1993, and the Kentucky Geological Survey shall release this information for public use when it has been processed or published, except that the Revenue Cabinet shall not release information from a report filed prior to January 1, 1993, if the filing entity files an objection to its release with the Revenue Cabinet.

(4) The Revenue Cabinet shall notify all first purchasers of natural gas and purchasers and transporters of crude oil of its intent to release information from reports made prior to 1993 under subsection (3) of this section, and of the filer's right to object to the release of his report. This notice, together with a form for filing an objection to the release of information, shall be mailed to the most recent known address of each filing entity at least six (6) months before the information is released to the public.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky Geological Survey shall publish and maintain for public use Kentucky oil and gas production records by lease or well in cooperation with the Revenue Cabinet as set out in Section I of this Act.

Section 3. To carry out the purposes of this Act, there is appropriated out of the General fund to the Kentucky Geological Survey the sums of $60,000 for FY 1992-93 and $60,000 for FY 1993-94, and to the Revenue Cabinet the sums of $20,000 for FY 1992-93 and $20,000 for FY 1993-94.

The Committee Substitute to **HB 200** is as follows:

HB 200, AN ACT relating to oil and gas production reporting, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.190, the Revenue Cabinet shall, on or before September 1 of each year, beginning in 1993 for 1992 production data, make available to the Kentucky Geological Survey the following information from oil and gas production reports:

(a) From the annual reports required under KRS 132.220, the quantity of natural gas production reported for each lease or, if available, for each well;

(b) From the annual reports required under KRS 132.220, the quantity of crude oil production reported for each lease or, if available, for each well;

(c) The identity of each lease or well for which production is reported including, if available, the operator name, lease or farm name, identification or lease number, county, field, and Carter Coordinates for each production reporting unit. In addition, the Revenue Cabinet shall provide to the Kentucky Geological Survey access to well location maps, solely for identifying and verifying well locations, not for release.

(2) The Kentucky Geological Survey shall organize the information it receives from the Revenue Cabinet into a standard format, and shall release it for public use no earlier than January 1 nor later than March 1 of the following year, with the exception of the first year, when data shall be released by September 1, 1994. The information shall be open for public use at the offices of the Kentucky Geological Survey, and available for sale at the Kentucky Geological Survey. The Kentucky Geological Survey may use the production information in ongoing research as soon as it is obtained from the Revenue Cabinet, so long as this does not make the information public before January 1 of the year after it is reported.

(3) The Revenue Cabinet shall make available to the Geological Survey the oil and gas production data specified in subsection (1) of this section which was reported in years prior to 1993, and the Kentucky Geological Survey shall release this information for public use when it has been processed, but no later than December 31, 1995. In processing reports filed prior to January 1, 1993:

(a) The Kentucky Geological Survey shall not release information from a report if the filing entity files an objection to its release before the deadline specified in the notices in (b) and (c) of this subsection;

(b) The Revenue Cabinet shall notify current filers of the intent to release prior records, the right to object, and the deadline for filing an objection by placing a notice on its oil and gas production reporting forms;

(c) The Kentucky Geological Survey shall publish notice of its intent to release prior records, the right to object, and the deadline for filing an objection in the newspaper with the largest circulation in each congressional district, pursuant to KRS Chapter 424, and also shall publish this notice in its oil and gas newsletters, in the Illinois Basin Report, the Appalachian Basin Report, Scout Check, The Oil & Gas Journal, Northeast Oil World, and in the newsletter of the Kentucky Oil and Gas Association; and

(d) The Kentucky Geological Survey shall maintain the confidentiality of the records it obtains from the Revenue Cabinet, shall release only those items of information specified in subsection (1) of this section, and shall return all records to the Revenue Cabinet after they have been processed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky Geological Survey shall maintain in a data repository and make available to the public Kentucky oil and gas production records by lease or well in cooperation with the Revenue Cabinet as set out in Section I of this Act.

Section 3. To carry out the purposes of this Act, there is appropriated out of the General fund to the Kentucky Geological Survey the sums of $80,000 for fiscal year 1992-93 and $80,000 for fiscal year 1993-94.

HB 238, AN ACT relating to the quality of motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act, unless the context clearly requires otherwise:

(1) "ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM specifications for automotive gasoline, or ASTM specifications for diesel fuel oils;

(2) "Commissioner" means the Commissioner of Agriculture or a departmental employee designated by the Commissioner to act on his behalf for the purposes of Sections 1 to 13 of this Act;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Diesel fuel" means refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils;

(5) "Division" means the Division of Weights and Measures in the Kentucky Department of Agriculture;

(6) "Gasoline" means gasoline as defined in KRS 138.210(4);

(7) "Gasoline alcohol blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more alcohols;

(8) "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more oxygenates;

(9) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement;

(10) "Inspector" means a state inspector of the Division of Weights and Measures as defined in KRS 363.510;

(11) "Motor fuels" means any liquid product used for the generation of power in an internal combustion or turbine engine and shall include, but not necessarily be limited to, gasoline, diesel fuel, gasoline alcohol blend, or special fuels;

(12) "Person" means any individual, partnership, corporation, company, firm, association, or other business entity; and

(13) "Special fuels" means special fuels as defined in KRS 138.210(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 13 of this Act shall be administered by the Commissioner or his authorized agent. For the purposes of administering and giving effect to the provisions of Sections 1 to 13 of this Act, the standards set forth in the annual book of ASTM standards, supplements, and revisions shall be applied.

(2) In adminstering Sections 1 to 13 of this Act, the department shall conform to any provisions of the federal law or regulation which imposes requirements in conflict with the ASTM standard.

(3) The department may promulgate administrative regulations to implement Sections 1 to 13 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

No article or commodity shall be sold or offered for sale and use in Kentucky as motor fuel unless it conforms to the following:

(1) The fuels shall be labeled and posted in accordance with applicable federal and state laws;

(2) The motor fuels shall conform to the latest ASTM specifications for that particular type, class, and grade of motor fuels except:

(a) As provided by Section 2(2) of this Act; and

(b) For gasoline-alcohol blends, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, the minimum temperature for fifty percent (50%) distillation shall be one hundred fifty eight (158) degrees Fahrenheit, and V/L (vapor to liquid ratio) is waived;

(3) The motor fuel compliance with ASTM standards or specifications shall be determined in accordance with the test methods prescribed in the latest ASTM publications;

(4) The tests required to assure compliance with this section shall be made by refiners, manufacturers, or blenders of the motor fuels. All shipments of such motor fuel shall state on either the bill of lading or invoice the destination of the shipment and that the shipment meets the standards and specifications required in this section. The Division of Weights and Measures may obtain a sample of any shipment for testing in accordance with Section 6 of this Act; and

(5) Unfinished oils and motor fuel blending components shall be exempt from this section until they are offered for sale as motor fuel by the refiner or manufacturer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or offers for sale motor fuel in Kentucky shall register one (1) time with the division on forms provided by the division and shall disclose the location within the Commonwealth from which motor fuel is offered for sale. Any person who starts or discontinues the sale or distribution of motor fuel in Kentucky shall notify the division of the date the sale or distribution within the Commonwealth will begin or end and the location affected.

(2) All motor fuels to be sold or offered for sale at a location shall be registered by the name, brand, or trademark under which it will be conveyed. Registration shall include:

(a) The name and address of the person registering the motor fuel;

(b) The antiknock index or octane number, as appropriate, at which the fuel is to be sold; and

(c) Certification, declaration, or affidavit that each individual grade or type of motor fuel conforms to Section 3 of this Act.

(3) Each person registered to sell motor fuels shall retain the bills of lading or invoices at the location to which the motor fuel is shipped. In the case of a person registered to sell motor fuels at more than one (1) location, the bills of lading or invoices may be retained at a central location in Kentucky, provided bills of lading or invoices are made available to the inspector upon request. A bill of lading or invoice shall be retained for ninety (90) days from the date of delivery.

SECTION 5. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner shall implement and administer an inspection and testing program to enforce compliance with Section 3 of this Act.

(2) When in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, inspection and testing may be performed under the provisions of Section 6 of this Act with regard to any person or business location which sells or offers for sale motor fuel in Kentucky.

(3) Upon receiving a consumer complaint alleging a violation of Section 3 of this Act, which in the discretion of the director of the division indicates that the public health, safety, or welfare has been threatened, the director may perform inspection and testing as may be necessary to determine whether the consumer complaint has an actual basis in fact.

(4) The test results and motor fuel analysis performed under the provisions of Sections 6 and 7 of this Act shall constitute open records and shall be available for public inspection at the division offices during regular business hours.

SECTION 6. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

Upon request of an inspector, a person who sells or offers for sale motor fuel for consumption in Kentucky shall immediately provide the department, in containers provided free of cost by the department, an amount of motor fuel not to exceed one (1) gallon. Samples shall be pumped, pulled, drawn, or otherwise provided in the presence of the field inspector. The department shall test the samples for compliance with the requirements of Section 3 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the division director finds motor fuels being sold or offered for sale by any person or at any location which does not meet the requirements of Sections 3, 4, or 6 of this Act, the director may issue a stop sale order and affix the stop sale order to the motor fuel dispenser containing substandard motor fuel.

(2) A stop sale notice may be issued to the seller or distributor of motor fuels failing to meet the requirements of Sections 3, 4, or 6 of this Act. The supplier shall be notified accordingly and a release shall be awarded by the division immediately after the supplier or seller demonstrates compliance. A report of the disposition shall be submitted to the division in writing within five (5) business days and contain an explanation for the failure to meet the requirements of Sections 3, 4, or 6 of this Act and corrective action taken. The stop sale order shall apply only to the location and particular type of motor fuel where sample analysis indicates a violation. Upon issuing a stop sale order, the director of the division may require meter readings and physical inventory be taken and included in the report of disposition.

(3) A retest or a new sample of substandard fuel analyzed under the provisions of Section 6 of this Act may be requested and shall be conducted by the department as soon as possible in accordance with ASTM standards for a retest.

SECTION 8. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

If suspended matter is found in the motor fuel, the filtration device shall be examined and if found defective shall be replaced before the dispenser may be used again.

SECTION 9. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells, offers for sale, conveys, or distributes motor fuel for consumption in Kentucky, or an agent or employee of the person, refusing during regular working hours to promptly provide upon request a sample for inspection and testing as required by Section 6 of this Act, shall be in violation and shall be subject to the penalty set forth in Section 13 of this Act.

(2) Any person who sells, offers for sale, conveys, or distributes motor fuel for consumption in Kentucky, or an agent or employee of that person, and interferes or attempts to interfere with the reasonable efforts of an inspector or department employee to perform any duty or responsibility assigned pursuant to Section 6 of this Act, shall be in violation and shall be subject to the penalties in Section 13 of this Act.

(3) A person who sells, offers for sale, conveys, or distributes motor fuel in Kentucky and fails to register with the department as required by Section 4 of this Act shall be subject to the penalties in Section 13 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Each official and employee within the department who is directly or indirectly involved in the administration or enforcement of Sections 1 to 13 of this Act and who has a direct or indirect interest in any firm, business, or corporation which sells or offers for sale motor fuels for consumption in Kentucky, shall annually file a written statement summarizing his involvement in the administration or enforcement of Sections 1 to 13 of this Act as well as his interest in the business, firm, or corporation. The statement shall constitute an open record, shall be kept on file in the department offices, and shall be available for public inspection during business hours.

(2) No official or employee within the division and no official or employee within the department carrying out any functions which have been assigned under the authority of Sections 1 to 13 of this Act shall take away or appropriate for his own use any sample collected by or submitted to the department for testing. The department shall establish policies and procedures governing the use, disposal, or sale of any sample remaining unused after testing is completed.

SECTION 11. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the motor fuel compliance fund. The fund shall be maintained as a separate and distinct account. All fees collected pursuant to Section 12 of this Act shall be deposited in the fund.

(2) The fund shall be administered by the department and shall be used only for the purpose of implementing an inspection and testing program to assure compliance with Sections 1 to 13 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) There is established a motor fuel compliance fee to be paid by dealers, as defined in KRS 138.210(2), on each gallon of gasoline and special fuels received in the state. The fee shall be assessed at a rate of two and one half cents (2-1/2) for each one hundred (100) gallons received. All money collected from the assessment of this fee shall be deposited to the motor fuel compliance fund.

(2) All categories of gasoline and special fuels specified in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of Sections 1 to 13 of this Act or any administrative regulation promulgated pursuant to Sections 1 to 13 of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars ($5,000), or confinement for not more than ninety (90) days, or both.

Calendar

HB 97, HB 466, HB 330, HB 340, HB 494, HJR 55, SB 71, HB 299, HB 306, HB 322, HB 232, HB 498, HCR 26 and **HCR 52** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 1 to **HB 133**, by Representative Maggard:

Amend printed copy of **HB 133** on page 14, between lines 6 and 7 add the following language:

"Section 2. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for this leave as provided in administrative regulations adopted by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked up pursuant to KRS 161.540(2).

(2) A member who has been out of the teaching profession, but not on an official leave of absence, for the purpose of obtaining a master's degree, Rank 1, or a doctor's degree may purchase up to ***two (2) years*** [~~one (1) year~~] of service credit in the Teachers' Retirement System. Any member who qualifies to purchase this service shall pay to the retirement system an amount equal to the contribution rate in effect on the salary the last year the member was employed prior to enrollment in a master's, Rank 1, or doctor's degree program with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following enrollment in a master's, Rank 1, or doctor's degree program. This sum shall be deposited in the state accumulation fund. Credit purchased may not exceed the time the member is enrolled in a master's program, Rank 1 program, or doctoral program. Leave for this purpose shall be verified by a copy of the

member's college transcript. This service credit must be purchased prior to July 1, 1991."; and

renumber the last section accordingly.

Report on Enrolled Bills

HB 111, **HB 138** and **HCR 10** were delivered to the Senate and signed by the President. Delivered to the Governor on February 19, 1992 at 2:13 p.m.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 31** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker and ordered delivered to the Senate. (Time - 2:34 p.m.)

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 344**, **HB 232**, **HB 299**, **HB 306**, **HB 322**, **HB 330**, **HB 340**, **HB 466**, **HB 494**, **HB 498**, **HCR 26**, **HCR 52**, **HJR 55** and **SB 71** have been posted for passage in the Orders of the Day for February 20, 1992.

The Committee on Rules reported that the following Bills and Resolutions have been recommitted:

Appropriations and Revenue: **HB 133**, **HB 135**, **HB 192**, **HB 220**, **HB 267**, **HB 358**, **HB 361**, **HB 364**, **HB 418**, **HJR 19**, **HJR 25**, **HCR 64**, **HJR 68**.

Representative Ford moved that the rules be suspended to introduce and act upon a Resolution and to allow floor privileges to special guests. Agreed.

HR 111, by Representative Ford: A RESOLUTION honoring John Conlee, Eric and Ethan Eversole, Ann Lair Henderson, and Glenn Westbrook and recognizing the Kentucky Country Music Hall of Fame.

Representative Ford moved the adoption of the following **HR 111**:

HR 111, A RESOLUTION honoring John Conlee, Eric and Ethan Eversole, Ann Lair Henderson, and Glenn Westbrook and recognizing the Kentucky Country Music Hall of Fame.

WHEREAS, many sons and daughters of the Commonwealth have distinguished themselves by making indelible contributions to country music which should be duly honored; and

WHEREAS, among the native Kentuckians making these contributions that preserve the customs, culture, and music of rural Kentucky are John Conlee, Eric and Ethan Eversole, Ann Lair Henderson, and Glenn Westbrook; and

WHEREAS, in 1988, the Kentucky General Assembly designated the Kentucky Country Music Hall of Fame to preserve and continue the spirit of Kentucky's great heritage in country music; and

WHEREAS, Eric and Ethan Eversole of Renfro Valley represent the unison of rural Kentucky spirit and country music, and it is our duty to nurture and preserve country music; and

WHEREAS, John Conlee of Versailles, Kentucky, colors his music with his country roots, bringing great acclaim to himself and all Kentuckians through such hits as "Rose Colored Glasses" and "Lady Lay Down"; and

WHEREAS, Ann Lair Henderson; her father, the late John Lair; and Glenn Westbrook represent rural Kentuckians who are struggling to this day with the help of the designation of the Kentucky Country Music Hall of Fame to nurture and preserve the heritage of country music within the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives supports John Conlee, Eric and Ethan Eversole, Ann Lair Henderson, and Glenn Westbrook and all other Kentuckians in their efforts to nurture and preserve country music within the Commonwealth.

Section 2. That this honorable body recognizes the Kentucky Country Music Hall of Fame and its design to preserve the customs, culture, and music of rural Kentucky.

Section 3. That the Clerk of the House of Representatives transmit to Representative Danny Ford five copies of this Resolution for distribution.

HR 111 was adopted by voice vote.

Representative Ford moved that a call of the roll be taken to show co-sponsors of **HR 111**.

On the roll call the vote was yeas 94—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HCR 22**, by Representative Williams:

Amend printed copy of **HCR 22/HCS** on page 4, line 3, after "Section 8.", insert the following:

"That any sexually transmitted disease prevention method with a failure rate in excess of five percent (5%) shall not be taught as effective for preventing sexually transmitted diseases.

Section 9.".

Floor Amendment No. 2 to the Committee Substitute to **HB 14**, by Representative Clarke:

Amend printed copy of **HB 14/HCS** on page 31, line 10, by deleting the word "When"; and

On page 31, by deleting lines 11 through 26 in their entirety; and

On page 32, by deleting lines 1 through 4 in their entirety.

Orders of the Day

HB 214, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Committee Amendment No. 1 to **HB 214**. Agreed.

Representative Palumbo moved that **HB 214**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 1. (See February 19, 1992 roll call on **HB 214** - Appendix.)

HB 214, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 214**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 320, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Floor Amendment No. 1 to **HB 320**. Agreed.

Representative McElroy moved that **HB 320**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See February 19, 1992 roll call on **HB 320** - Appendix.)

HB 320, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 320**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Floor Amendment No. 1 to **HB 321**. Agreed.

Representative Deskins moved that **HB 321**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 1. (See February 19, 1992 roll call on **HB 321** - Appendix.)

HB 321, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 321**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 12**, **HB 13**, **HB 23** and **HB 139** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker and ordered delivered to the Senate. (Time - 2:54 p.m.)

HB 12, **HB 13**, **HB 23** and **HB 139** were delivered to the Senate and signed by the President. Delivered to the Governor on February 19, 1992 at 3:08 p.m.

Orders of the Day (Continued)

HB 377 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 377** be passed.

On the roll call the vote was: Yeas 95, Nays 3. (See February 19, 1992 roll call on **HB 377** - Appendix.)

HB 377 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 377** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 401, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 401**. Agreed.

Representative Clarke moved that **HB 401**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 80, Nays 10. (See February 19, 1992 roll call on **HB 401** - Appendix.)

HB 401, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 401**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 399 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 399** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 19, 1992 roll call on **HB 399** - Appendix.)

HB 399 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 399** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Palumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Palumbo moved the adoption of the following **HR 108**:

HR 108, A RESOLUTION honoring and commending Representative Ernesto Scorsone on his fortieth birthday.

WHEREAS, according to Spanish prose writer and Jesuit priest, Baltasar Gracian, "at twenty man is a peacock, at thirty a lion, at forty a camel, at fifty a serpent, at sixty a dog, at seventy an ape, at eighty nothing at all,"; and

WHEREAS, this means, according to Baltasar Gracian, our dear friend Representative Ernesto Scorsone is a humped, long-necked, ruminant mammal of the genus Camelus, domesticated in Old World desert regions as a beast of burden; and

WHEREAS, it is said that if the camel once gets his nose in the tent, his body will soon follow; and so it is that Representative Ernesto Scorsone has put his whole soul into his political pursuits; and

WHEREAS, this wing-footed steed has broken down in his speed but his legislative pursuits jog him forward;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed body commends Representative Ernesto Scorsone for his many contributions to the Commonwealth and wishes Representative Ernesto Scorsone a happy fortieth birthday.

Section 2. That the Clerk of the House of Representatives send a copy of this Resolution to Representative Ernesto Scorsone.

HR 108 was adopted by voice vote.

Representative Palumbo moved that a call of the roll be taken to show co-sponsors of **HR 108**.

On the roll call the vote was yeas 96—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Yates, Zimmerman. Nays 0.

Representative LeMaster moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 113, by Representatives LeMaster and Lear: A RESOLUTION honoring our colleague, Representative Marshall Long, and his wife Claudette on the occasion of their twentieth anniversary.

Representative LeMaster moved the adoption of the following **HR 113**:

HR 113, A RESOLUTION honoring our colleague, Representative Marshall Long, and his wife Claudette on the occasion of their twentieth anniversary.

WHEREAS, twenty years of marriage can be over in the blink of an eye, and it is best to stop, reflect, and cherish the years gone by on one's wedding anniversary; and

WHEREAS, it was on this day, twenty years ago, in 1972, when the knot was tied for Claudette and Marshall Long at the First Presbyterian Church of Shelbyville; and

WHEREAS, on their honeymoon in Naples, Florida, it is rumored they spent a lot of time at the dog races; and

WHEREAS, they have shared the blessing of raising two sons: Tyler, who is now eighteen and a freshman at the University of Kentucky, and Matthew, a sophomore at Shelbyville High School; and

WHEREAS, it is a fact that Marshall Long is a dedicated, loyal, and kind father and a public servant who responds to his constituents' needs, problems, and complaints, no matter how small; and

WHEREAS, it is also rumored that Claudette would not trade her husband for any other man;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this venerable institution does hereby congratulate our esteemed peer, Representative Marshall Long, and his loving wife Claudette, upon the occasion of their twentieth wedding anniversary.

Section 2. That the House of Representatives wishes Representative Marshall Long and his wife Claudette every happiness and success in the years to come and adjourns this day in their honor.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Marshall Long.

HR 113 was adopted by voice vote.

Representative LeMaster moved that a call of the roll be taken to show co-sponsors of **HR 113**.

On the roll call the vote was yeas 96—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Nunn moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 112, by Representative Nunn: A RESOLUTION adjourning the House of Representatives in honor of and respect to former First Lady of the Commonwealth of Kentucky, Beula Cornelius Nunn, upon the occasion of her birthday.

Representative Nunn moved the adoption of the following **HR 112**:

HR 112, A RESOLUTION adjourning the House of Representatives in honor of and respect to former First Lady of the Commonwealth of Kentucky, Beula Cornelius Nunn, upon the occasion of her birthday.

WHEREAS, the highly esteemed Beula Cornelius Nunn is the loving wife of the distinguished former Governor Louie B. Nunn; and

WHEREAS, Beula Cornelius Nunn's accomplishments as an historic preservationist, to name a few, have been the establishment of a state shrine at Whitehall, home of Abolitionist Cassius Marcellus Clay; the restoration of the Capitol's State Reception Room into an elegant replica of Marie Antoinette's reception room at Versailles; the refurbishing of the Governor's Mansion; leading several womens' clubs to purchase the Mary Todd Lincoln house in Lexington; and her continuing efforts to establish the Southcentral Kentucky Cultural Center, a museum of "The Barrens" area where buffalo, elk, and deer grazed in large numbers; and

WHEREAS, Beula Cornelius Nunn is now as energetic and self assured as she was during her term as a gracious First Lady of the Commonwealth of Kentucky; and

WHEREAS, Beula Cornelius Nunn is a symbol of goodwill and can be likened to a centerpiece of Kentucky pride; and

WHEREAS, no language can express the power, beauty, heroism, and majesty of a mother's love, and Beula Cornelius Nunn is the loving mother to three sons, State Representative Stephen Nunn, Reverend Joe Billy Aspley, Jr., and Dr. Donald Bruce Aspley; and two daughters, Mary Susan Aspley Kreiger, deceased, and Jennie Lou Nunn Penn; and the proud grandmother to thirteen grandchildren; and

WHEREAS, Beula Cornelius Nunn will celebrate her birthday this date, Wednesday, February 19, 1992;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hold true its affection and appreciation to former First Lady of the Commonwealth of Kentucky, Beula Cornelius Nunn, for her many years of unselfish and dedicated service in preserving the history of our great Commonwealth.

Section 2. That this honorable body does hold Beula Cornelius Nunn in the highest esteem, and wishes to her a most happy and glorious birthday.

Section 3. That when the House of Representatives adjourns this day, Wednesday, February 19, 1992, it does so in honor of Beula Cornelius Nunn, upon the occasion of her birthday.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Beula Cornelius Nunn, 3918 Hiseville Park Road, Horse Cave, Kentucky 42749, and to Mrs. Jennie Lou Nunn Penn, 425 Hart Road, Lexington, Kentucky 40502.

HR 112 was adopted by voice vote.

Representative Nunn moved that a call of the roll be taken to show co-sponsors of **HR 112**.

On the roll call the vote was yeas 95—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Gray moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 106**:

HR 106, A RESOLUTION recognizing, honoring, and celebrating Black History Month.

WHEREAS, February is Black History Month; and

WHEREAS, this month, across the United States of America and this great Commonwealth, observances are being held to increase public awareness of the importance of Black History; and

WHEREAS, knowledge of Black History is essential to understanding heritage, self-esteem, and development of a sense of pride in all Kentuckians; and

WHEREAS, basic awareness of Black History encourages understanding, sensitivity, and compassion toward one's fellowman; and

WHEREAS, all across the United States of America and this great Commonwealth, individuals, companies, organizations, agencies, and associations are coming together to sponsor various activities directed toward celebrating Black History Month; and

WHEREAS, this honorable body is pleased to acknowledge the vital importance of recognizing, honoring, and celebrating Black History Month;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes, honors, and celebrates Black History Month.

Section 2. That the Clerk of the House of Representatives be directed to provide copies of this Resolution to any individual upon request.

HR 106 was adopted by voice vote.

Representative L. Clark moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative L. Clark moved the adoption of the following Legislative Citation No. 25. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes LESLIE ROWLAND for her inquiring, sensitive mind which has led to her intense interest in the legislative process. Whereas, Leslie Rowland has been named Best Page at the 1991 Kentucky Youth Assembly; and whereas, Leslie Rowland is commended for her academic achievements, this prestigious body joins Representative Larry Clark in honoring her for her ambition, creativity, and eagerness.

Representative Richards moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Richards moved the adoption of the following **HR 105**:

HR 105, A RESOLUTION in memory and honor of Margie Helm of Bowling Green.

WHEREAS, Margie Helm died Thursday, December 19, 1991, at the age of ninety-seven; and

WHEREAS, Margie Helm will best be remembered for her tireless dedication to the improvement of libraries at Western Kentucky University and the Bowling Green Public Library; and

WHEREAS, Margie Helm joined the Western Kentucky State College library staff in 1920, became head librarian in 1923, and served as director from 1956 until the late 1960's; and

WHEREAS, her contributions may never be known to the many who are destined to benefit from her work to increase library services, acquire more materials, and build modern facilities; and

WHEREAS, two of Margie Helm's proudest accomplishments were being elected the first woman elder in the Bowling Green Presbyterian Church and being elected in "Who's Who in America"; and

WHEREAS, Margie Helm's contributions to her community and to Kentucky are immeasurable and her influence is such as to be true and lasting; and

WHEREAS, Margie Helm will never be forgotten by the thousands of people whose lives she improved; and

WHEREAS, not only to her profession, but to life itself, she has contributed scholarship, dignity, and graciousness;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its sincere sense of bereavement upon the loss of a great Kentuckian, Margie Helm, and extends its thoughts and prayers to her loved ones.

Section 2. That the Clerk of the House of Representatives is directed to transmit three copies of this Resolution to her niece, Jane Helm Baker, 917 South Green Street, Glasgow, Kentucky 42141, for distribution.

HR 105 was adopted by voice vote.

Representative Farley moved that the rules be suspended to introduce guests and to act upon a Legislative Citation. Agreed.

Representative Farley moved the adoption of the following Legislative Citation No. 26. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates MICHAEL K. HEWLETT on the occasion of being elected President to the Local 1865, USWA at Ashland, Kentucky.

WHEREAS, Michael K. Hewlett is a twenty-three year employee of Armco Steel.

WHEREAS, Michael K. Hewlett is the only president of Local 1865, USWA to be elected to three terms in office, and the only one to be reelected to two consecutive terms.

NOW, THEREFORE, Be it resolved that the Kentucky House of Representatives joins with State Representative Don Farley in applauding your outstanding effort and dedication to your job.

Representative Burch moved that the rules be suspended to act upon a Resolution and to grant floor privileges to special guests. Agreed.

Representative Burch moved the adoption of the following **HR 109**:

HR 109, A RESOLUTION adjourning the House of Representatives in honor of Kentucky's Foster Parents.

WHEREAS, the number of Kentucky children requiring out-of-home placement has grown from 2,595 in July of 1981 to 3,380 in July of 1990, representing a tragic 30.25% increase; and

WHEREAS, historically family foster homes have been used in the majority of cases to provide out-of-home care; and

WHEREAS, even though in May 1991, there were 1,450 approved foster homes throughout the state, the number of available experienced homes has remained the same over the past decade; and

WHEREAS, current trends indicate a decreasing pool of potential foster homes and an increasing number and severity of problems presented by foster children; and

WHEREAS, today's foster parents must deal with children who are sexually active, abusing drugs and alcohol, attacking people or property, mentally ill, medically fragile, or HIV positive; and

WHEREAS, the reimbursement rate for foster parents in Kentucky is only sixty percent of the national estimated cost of raising a child; and

WHEREAS, foster parents across the Commonwealth are the backbone of the system of care for Kentucky's troubled children in out-of-home care;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body, both individually and collectively, do hereby commend the many foster parents across the Commonwealth for their selfless dedication to Kentucky's troubled children.

Section 2. That the House of Representatives does express its appreciation to Kentucky's foster parents, who have maintained the state's system of care by shouldering forty percent of the cost of providing for foster children.

Section 3. That the House of Representatives does hereby proclaim Kentucky's foster parents to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 4. That in recognition of Foster Parent Recognition Week, the House of Representatives does adjourn this day, Wednesday, February 19, 1992, in honor of Kentucky's foster parents.

Section 5. That a copy of this resolution be transmitted to Ms. Shirley Hedges, President, Kentucky State Foster Care Association, 122 Pride Avenue, Madisonville, Kentucky 42431, as well as the Secretary of the Cabinet for Human Resources and the Commissioner of the Department for Social Services.

HR 109 was adopted by voice vote.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HR 109**.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Deskins, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, LeMaster, Lewis, Lile, Little, Long, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Sanders, Sheehan, B. Smith, R. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Callahan moved that **HB 237** be withdrawn. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 580, by Representative Brown: AN ACT relating to property taxation.

HB 581, by Representative Maggard: AN ACT relating to forestry.

HB 582, by Representative Kerr: AN ACT relating to planning and zoning.

HB 583, by Representative Stumbo: AN ACT relating to banking.

HB 584, by Representatives Stumbo and Little: AN ACT relating to the extended weight coal hand system.

HB 585, by Representatives Reinhardt, Gedling, Todd, B. Smith, Farrow, Kerr, Bruce, Sanders, Gee, Crupper, Turner, Lyne, Coleman, Arnold, Napier, Mullinix, McElroy and Zimmerman: AN ACT relating to property taxes.

HB 586, by Representative Kerr: AN ACT relating to finance and revenue of cities.

HB 587, by Representative Burch: AN ACT relating to deaf or hard of hearing recipients of medical assistance program benefits.

HB 588, by Representatives Mason, Mack and Gray: AN ACT relating to the sale of human organs.

HB 589, by Representatives Mason, Bentley, Hatcher, Mack, Ravenscraft and Gray: AN ACT relating to disaster and emergency services.

HB 590, by Representatives Nunn and Keith: AN ACT relating to charitable gaming.

HB 591, by Representative Clarke: AN ACT relating to motor vehicles.

HB 592, by Representative Clarke: AN ACT relating to the Office of Education Accountability.

HB 593, by Representative Johnson: AN ACT relating to coal mining.

HB 594, by Representative Ridley: AN ACT relating to sales and use tax.

HB 595, by Representative Hourigan: AN ACT relating to taxation.

HB 596, by Representatives Moberly, Noe and Barrows: AN ACT relating to the school term.

HB 597, by Representatives Nunn, Keith and Altman: AN ACT relating to insurance.

HB 598, by Representatives Napier, Gedling, Nunn, Jensen, Crupper, Strong, Sanders, Curd, Castleman, Turner, Bruce, Ballard, Yates, Noland, Maggard, Ford, Hatcher, Lewis, Mason, Richardson, Cyrus, J. Harper, McElroy, Mullinix, Mack and Jones: AN ACT relating to retirement benefits.

HB 599, by Representative Noland: AN ACT relating to classified employees.

HB 600, by Representatives Walker, Williams, Freibert and Nunn: AN ACT relating to individual income taxation.

HR 114, by Representative Cyrus: A RESOLUTION honoring the Greenup County High School Varsity and Junior Varsity Cheerleading Squads for winning the All-Girl Varsity Division of the 1992 National Cheerleading Championships.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Banking and Insurance: **HB 552**

Motions, Petitions and Communications (Continued)

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 401**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 84, Representative Yates; **HB 203** and **HB 565**, Representative Williams; **HB 408**, Representative Sanders; **HB 410**, Representative Sanders; **HB 455**, Representative Strong; **HB 529**, Representative K. Harper; **HB 567**, Representatives Bowling, T. Smith; **HB 598**, Representative Toby.

Announcements

The following meetings were announced:

Natural Resources and Environmental Protection, 10:00 a.m., February 20, 1992, Room 131.

Elections and Constitutional Amendments, 8:30 a.m., February 20, 1992, Room 131.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 20, 1992.

On the roll call the vote was yeas 87—Ackerson, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lewis, Little, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Deskins, Heleringer, LeMaster, Lile, Overstreet.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 20, 1992

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Barrows.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 19, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 113.** (Time: 2:03 p.m.)

Floor Amendments

Floor Amendment No. 1 to **HB 340**, by Representative Lewis:

Amend printed copy of **HB 340** on page 1, line 8, by deleting the word "***private***" and inserting in lieu thereof the word "***independent***";

And on page 2, line 6, by inserting after the word "for" the word "***independent***" and inserting an opening bracket before the word "private" and by placing strikethroughs through the word "private" and by inserting a closing bracket after the word "private".

Representatives Cyrus moved that the rules be suspended to act upon a Resolution and to grant floor privileges to special guests. Agreed.

Representative Cyrus moved the adoption of the following **HR 114**:

HR 114, A RESOLUTION honoring the Greenup County High School Varsity and Junior Varsity Cheerleading Squads for winning the All-Girl Varsity Division of the 1992 National Cheerleading Championships.

WHEREAS, the thirteenth annual National High School Cheerleading Championships, sponsored by the Universal Cheerleaders Association, was held on Sunday, February 2, 1992, at Sea World in Orlando, Florida; and

WHEREAS, for the first time in the history of the Universal Cheerleaders Association, the National Championship has been awarded to victors from the same high school; and

WHEREAS, the Greenup County High School Varsity Cheerleading squad have been National High School Cheerleading Champions six times: 1981, 1982, 1983, 1984, 1987, and 1992; and

WHEREAS, the Greenup County High School Junior Varsity squad have been National High School Cheerleading Champions in 1985 and 1992; and

WHEREAS, the Greenup County High School Varsity and Junior Varsity teams have shown great determination, skill, and spirit, which will bring extensive home and national recognition to the Commonwealth of Kentucky when their championship is televised by ESPN on Saturday, February 22, 1992; and

WHEREAS, the Varsity Cheerleading squad sponsors Candy Berry and Susi Fosson, and the Junior Varsity Cheerleading squad sponsors Linda Cochran and Susan Ray were extremely instrumental in leading their teams to victory and must be recognized for their training excellence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body believes these outstanding young women best exemplify the finest qualities so inherent in the youth of the Commonwealth of Kentucky.

Section 2. That the House of Representatives salutes the Greenup County High School Cheerleading squads for their superlative skills and wishes them continued success in all future endeavors.

Section 3. That the House of Representatives congratulates these fine Greenup County High School Varsity and Junior Varsity cheerleading squads for the distinction they have attained in becoming the 1992 National Champion Cheerleaders.

Section 4. That the House of Representatives is proud to recognize the Greenup County High School Varsity Cheerleading squad members: Shawna Virgin, Vanessa Stambaugh, Tracey Gullett, Amanda Couch, Amber Cooper, Davy Jo Ferguson, Heather Hayden, Glenda Davis, Crystal Spriggs, Brandi Traylor, Jennifer Nolan, Lori Stultz, Leslie Potter, Jimmie Jordan, Amy Wireman, and Holly Roark, and the Greenup County High School Junior Varsity Cheerleading squad members: Kim Lewis, Kera Roark, Darlene Howard, Zisha Gregory, Lee Ann Walters, Lynette Abdon, Kelly Nolan, Crystal McClurg, Jennifer Large, Missy Adkins, Datha Waugh, Biffy Colegrove, Andrea Reeves, and Michelle Burnette.

Section 5. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to the cheerleading squad sponsors and to each varsity and junior varsity squad members, c/o Principal Donald Liles, Greenup County High School, 4011 Ohio River Road, Greenup, Kentucky 41144.

HR 114 was adopted by voice vote.

Representative Cyrus moved that a call of the roll be taken to show co-sponsors of **HR 114**.

On the roll call the vote was yeas 100—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Introduction of Bills and Resolutions

HB 601, by Representative Pritchett: AN ACT relating to judicial retirement.

HB 602, by Representative Butler: AN ACT relating to crimes and punishments.

HB 603, by Representative Butler: AN ACT relating to probation and parole.

HB 604, by Representatives Richards, Bronger, L. Clark, Burch, Donnermeyer and Allen: AN ACT relating to specialists in hearing instruments and hearing aid dealers.

HB 605, by Representative L. Clark: AN ACT relating to taxation of malt beverages.

HR 115, by Representatives Wayne and Toby: A RESOLUTION honoring the Louisville Male High School Concert Choir.

HJR 116, by Representatives Noe, Mason and Bentley: A JOINT RESOLUTION relating to the sales and use taxation of tools and industrial supplies.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 585, HB 598, HB 600, HB 595, HB 586, HB 591, HB 594, HB 580**

Banking and Insurance: **HB 597, HB 583, HB 576**

Business Organizations and Professions: **HB 590, HB 578**

Counties and Special Districts: **HB 582, SB 54, SB 122**

Education: **HB 599, HB 596, SB 109, SB 141, HB 592**

Health and Welfare: **HB 587, HB 588**

Judiciary: **HB 574, HB 573**

Natural Resources and Environmental Protection: **HB 593, HB 575, HB 577, SB 112, SB 144**

State Government: **HB 589, HB 581, HB 579, SB 147, SB 148, SB 149, SB 150, SB 159**

Tourism Development and Energy: **HCR 110**

Transportation: **HB 584, HB 572**

Report of Committees

The Clerk announced that the Committee on Committees has made the following assignments: Representative Ravenscraft to the Committee on Tourism Development and Energy, the Committee on Natural Resources and Environmental Protection and the Committee on Health and Welfare.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 476, HB 528, HB 456**

Education: **HB 502, HB 519, HB 522**

Business Organizations and Professions: **HB 568**

Report of Committees (Continued)

The Committee on Elections and Constitutional Amendments reported **HB 47**, with Committee Substitute attached thereto, **HB 126** and **HB 199**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 47, AN ACT relating to primary elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the ***third*** [~~fourth~~] Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 2. KRS 118.561 is amended to read as follows:

(1) Subject to KRS 118.555, on the first Tuesday after the ***third*** [~~fourth~~] Monday in May, in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

The Committee Substitute to **HB 47** is as follows:

HB 47, AN ACT relating to primary elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates to be voted for at the next regular election***, including primary elections for urban-county government officers,*** shall be held on the first Tuesday after the ***third*** [~~fourth~~] Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 2. KRS 118.561 is amended to read as follows:

(1) Subject to KRS 118.555, on the first Tuesday after the ***third*** [~~fourth~~] Monday in May, in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

HB 126, AN ACT relating to county boards of election.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, the sheriff and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed. The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board. The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board. If the board rejects a replacement recommended by the sheriff or the county clerk, a new name shall be recommended until a temporary appointment is approved by the board. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party, shall be the one (1) authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. ***A member appointed by the State Board of Elections may be removed upon request of the county executive committee that submitted the member's name.*** If an appointee is temporarily unable to act, a temporary appointee shall be named by

the State Board of Elections. A temporary appointee shall serve until the original appointee notifies the State Board of Elections that he is able to resume his term. Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor. Compensation and payment of actual expenses of members shall be set by the fiscal court either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars ($15) nor more than one hundred dollars ($100) for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On election days, appeals may be made to a circuit judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.

(5) In counties containing cities of the first and second class, the board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

HB 199, AN ACT relating to precinct election officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than ***April*** [~~September~~] 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before ***April*** [~~September~~] 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(7) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(8) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor, except for emergency appointments made as provided in subsection (5) of this section.

(9) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10) Each election officer shall be paid a minimum of forty-nine dollars ($49) per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the two judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall be paid by the county.

The Committee Substitute to **HB 199** is as follows:

HB 199, AN ACT relating to precinct election officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than ***March*** [~~September~~] 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before ***March*** [~~September~~] 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the two (2)

members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(7) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(8) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor, except for emergency appointments made as provided in subsection (5) of this section.

(9) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10) Each election officer shall be paid a minimum of forty-nine dollars ($49) per day, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the two judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall be paid by the county.

The Committee on Natural Resources and Environmental Protection reported **HB 386**, **HB 465** and **HB 472**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 386, AN ACT relating to air emissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 77 IS CREATED TO READ AS FOLLOWS:

The air pollution control board, in conjunction with the Natural Resources and Environmental Protection Cabinet, shall promulgate administrative regulations, rules and orders, to implement Section 7412(i)(5) of Title 42, United States Code, relating to alternative emission limitations allowed for early reduction of emissions.

Section 2. KRS 224.20-110 is amended to read as follows:

(1) No person shall, directly or indirectly, emit into or discharge into the air under the jurisdiction of the Commonwealth, or cause, permit, or allow to be emitted or discharged into such air any contaminants as provided for in subsection (1) of KRS 224.01-010 that shall cause or contribute to the pollution of the air of the Commonwealth in contravention of the emission standards or the ambient air standards adopted by the cabinet, or in contravention of any of the rules, regulations, or orders of the cabinet, or in contravention of any of the provisions of this chapter.

(2) For the purpose of fostering willing compliance with the emission standards and the ambient air standards adopted by the cabinet, the cabinet shall promulgate and implement administrative regulations which give effect to Section 7412(i)(5) of Title 42, United States Code, relating to alternative emission limitations allowed for early reduction of emissions. The program established by this subsection shall be conducted strictly in accordance with the federal law.

HB 465, AN ACT relating to the disposal of chemical agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.50-130 is amended to read as follows:

(1) ***The General Assembly of Kentucky finds that:***

(a) The compounds listed in subsection (2) of this section were designed and configured to be utilized for warfare, with the purpose of incapacitating or inducing lethality in persons who come in contact with the compounds, and that the compounds have no legitimate civilian use;

(b) The Commonwealth of Kentucky owes to its residents a duty of utmost care to assure that no person will be exposed to these compounds or the degradation by-products of these compounds through purposeful or accidental release of the compounds into the air, land, or water of the Commonwealth, and also owes a duty to utilize the police powers of the Commonwealth to guarantee the safe demilitarization, decommissioning, dismantling, and disposal of weapons containing these compounds and to eliminate potential risks of exposure from the treatment and disposal of the compounds;

(c) Section 6929 of Title 42 of the United States Code, specifically recognizes and reserves to the Commonwealth the authority to impose reasonable restrictions directly relating to public health and safety with respect to the management of hazardous wastes beyond the minimum standards established under federal law; and

(d) There exist substantial gaps in information concerning the acute and chronic health effects and environmental consequences of exposure to the compounds and the degradation by-products of the compounds listed in subsection (2) of this section, which, given the high acute toxicity of the compounds relative to other regulated hazardous wastes, justify the imposition of standards correlative to the uncertainties and severity of risks potentially posed by the treatment or disposal of the compounds.

(2) Notwithstanding any other provision of this chapter, within thirty (30) days after July 15, 1988, the cabinet shall list the following substances as hazardous wastes for the purposes of regulation of the treatment, storage, and disposal of the wastes under the delegated authority of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.: GB (isopropyl methyl phosphonoflouridate); VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate); and H (bis(2-chloroethyl) sulfide) and related compounds.

(3)[~~(2)~~] In addition to the requirements of KRS 224.46-520(1), the cabinet shall consider the criteria set forth in this subsection in making a determination to issue, deny or condition a permit for any person desiring a permit to construct or operate a hazardous-waste site or facility for treatment, storage or disposal of any of the substances identified in subsection *(2)*[~~(1)~~] of this section. The applicant shall affirmatively demonstrate, and the cabinet shall find prior to issuance, conditional issuance or denial of the permit, that:

(a) The proposed treatment or destruction technology has been fully proven in an operational facility of scale, configuration, and throughput comparable to the proposed facility, for a period of time sufficient to provide ***consistent*** assurance of ***destruction or neutralization at an efficiency of*** ninety-nine and nine thousand, nine hundred, and ninety-nine ten thousandths percent (99.9999%) ***for*** [~~destruction or neutralization of~~] each substance proposed to be treated or destroyed***, with the efficiency to be demonstrated as achievable during the design life of the facility under all operating conditions including during the occurrence of malfunctions, upsets, or unplanned shutdowns***;

(b) Monitoring data from ***an operational*** [~~a comparable~~] facility ***as described in paragraph (a) of this subsection*** reflects the absence of emissions from ***treatment and destruction facilities*** [~~stack~~] or fugitive sources, including but not limited to the ***substances identified in subsection (2) of this section and*** products of combustion and incomplete combustion, which alone or in combination present any risk of acute or chronic human health effect***, as demonstrated by sufficient and applicable toxicological data,*** or adverse environmental effect; [~~and~~]

(c) ***A plan has been submitted to the cabinet and approved, providing*** [~~Provision has been made~~] for development and funding of sufficient training, coordination, and equipment for state and local emergency response personnel, including the health, police, fire, and emergency response fields, to assure the ability of the community to respond to releases from such a facility, including development and funding of an ***emergency response*** [~~evacuation~~] plan by the applicant which demonstrates the capability of ***evacuating prior to exposure all*** [~~removing~~] individuals ***that might be exposed to releases from the facility during a credible*** [~~from the largest area at risk from a~~] worst-case release. ***In determining the population and area of potential exposure during a worst-case release, all possible climatic conditions and population distributions shall be assumed for the largest area where any exposure to the release could induce acute or chronic health consequences or environmental impact. The plan shall be developed and submitted for approval by the applicant, and no technical review of a permit subject to this section shall proceed unless the plan has first been approved, after public notice and an opportunity to be heard concerning the plan;***

(d) In considering any application for a permit subject to this section, and supporting information which shall be provided by the applicant on request by the cabinet, the cabinet shall not issue a permit unless, as part of the alternatives analysis of KRS 224.46.520(1), the cabinet makes an affirmative finding after public notice and an opportunity to be heard, that:

1. No alternative method of treatment or disposal, including, but not limited to, neutralization and transportation to a less-populated disposal site, exists that creates less risk of release or harm to the public or the environment in the event of release;

2. No alternative method of treatment or destruction, including, but not limited to, neutralization and transportation to a less-populated disposal site, is likely to exist or could be developed which would pose less risk of release or harm to the public or environment in the event of release, before the time that the decomposition of the compounds or the containers or munitions housing the compounds, necessitates destruction of the compounds due to serious risk of imminent and substantial release of the compounds due to instability or container degradation. In considering alternatives to the proposed activity, the cabinet shall affirmatively consider all reasonable alternatives, including alternatives that could be developed, and shall issue a permit only where it finds by clear and convincing evidence that no alternative treatment or disposal option, including transportation, exists or could be developed that would provide greater protection against exposure or harm to the public or environment; and

(e) In addition to the definition of the term as defined in this chapter, the term "treatment", as used in this section, shall include the manual or mechanical handling of the chemical compounds listed in subsection (2) of this section and of any munitions containing the compounds; and the processing of munitions to remove the compounds, to separate compound components, and to otherwise prepare the components and compounds for destruction, neutralization, transportation, dismantling, or decommissioning.

HB 472, AN ACT relating to air emissions and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the Environmental Quality Commission;

(6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;

(7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:

(a) "Composting" may include a process which creates an anaerobic zone within the composting material;

(b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;

(8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(11) "District" means an air pollution control district as provided for in KRS Chapter 77;

(12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(13) "Generator" means any person, by site, whose act or process produces waste;

(14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;

(15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators***, including facilities which thermally treat contaminated soils to reduce levels of volatile organic compounds in the soils*** and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

(16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

(17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;

(19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

(21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet;

(22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

(23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

(24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;

(26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;

(28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(30) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(31) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;

2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, ***and includes soils contaminated with substances leaked or released from underground storage tanks at commercial establishments to the extent that the contaminated soil is not regulated as a hazardous waste, but shall not mean*** [~~excluding~~] household and industrial solid waste;

3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

(35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;

(36) "NPDES" means National Pollutant Discharge Elimination System;

(37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;

(39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approved county or multicounty solid waste management plan;

(40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;

(41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;

(42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

(43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;

(44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

(45) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;

(46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

(47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;

(48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation; and

(49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) After a preliminary determination has been made concerning the issuance or denial of any permit authorizing the construction or reconstruction of an air contaminant source, or the modification of an existing permit by any source where the modification will cause an increase in the potential to emit one hundred (100) tons per year or more of any pollutant or combination of pollutants, or any increase in emissions of a toxic air pollutant, the cabinet shall notify the public by prominent advertisement in newspapers of general circulation in the locality in which the proposed source would be located or modified, of the application and preliminary determination with respect to the application. The notice shall be sent to the applicant, local governmental and land use bodies and local air pollution agencies, and persons on a mailing list that shall be maintained of interested persons requesting to receive the notices.

(2) The cabinet shall provide a thirty (30) day comment period for receipt of comments pertaining to the proposed agency action with respect to applications to construct, reconstruct, or modify an air

contaminant source, and shall provide a detailed response to all comments when the final agency determination is made with respect to an application.

(3) In any action seeking review pursuant to KRS 224.10-420 of a determination of the agency under this section with respect to an air contaminant source, the hearing officer may grant a stay of the permitting action pending administrative review, if:

(a) A hearing has been held on the request for a stay in which all parties were given an opportunity to be heard;

(b) The person requesting relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(c) The relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources, and the relief requested is not issuance of a permit where the permit has been denied.

Section 3. Whereas, permits authorizing the construction or reconstruction of air contaminant sources are in the process of being reviewed without an opportunity for the public to comment, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 472** is as follows:

HB 472, AN ACT relating to air emissions and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any air contaminant source that thermally treats soils that have been contaminated by releases of petroleum from underground tanks at commercial or industrial facilities where the soils are not otherwise regulated as hazardous waste shall be subject to this section, unless it accepts only those soils it has contaminated or those soils contaminated by its wholly-owned subsidiary. Any mobile unit for thermal treatment of petroleum contaminated soils where the unit processes the soils at, or in the immediate proximity, of the site of the soil contamination and which does not receive soils from other contaminated sites or facilities shall not be subject to this section.

(2) The cabinet shall not accept an application to construct or operate a new air contaminant source subject to this section unless the fiscal court in which that source will be located approves, after public notice and a public hearing, its construction or operation. A fiscal court shall not disapprove operation of a source if it has previously approved its construction. The fiscal court shall consider the social and economic impacts of that source on the affected county, including changes in property values, community perception, and other psychic costs; costs and availability of public service facilities and improvements required to support the source and to protect the public health, safety, and the environment; and the relationship of the source to local planning and existing development.

(3) After a preliminary determination has been made concerning the issuance or denial of a permit authorizing the construction or reconstruction of an air contaminant source subject to this section or the modification of a permit for an air contaminant source subject to this section, when modification will cause an increase in the potential to emit one hundred (100) tons per year or more of any pollutant or any significant increase in emissions of a toxic air pollutant, the applicant shall notify the public by prominent advertisement in newspapers of general circulation in the locality in which the source will be located or modified of the application and preliminary determination with respect to the application. The cabinet shall send notice of its preliminary determination to the applicant, local governmental, land use bodies and local air pollution agencies, and persons on a mailing list that shall be maintained of interested persons requesting to receive the notices.

(4) The cabinet shall provide a thirty (30) day comment period for receipt of comments pertaining to the preliminary determination with respect to applications to construct, reconstruct, or modify an air contaminant source subject to this section, and shall provide a detailed response to all significant comments when the final agency determination is made with respect to an application.

Section 2. Whereas permits authorizing the construction or reconstruction of the air contaminant sources subject to Section 1 of this Act are in the process of being reviewed without an opportunity for the public to comment, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on State Government reported **HB 113**, with Committee Substitute attached thereto, **HB 455**, with Committee Substitute attached thereto, **HB 487**, with Committee Substitute attached thereto, **SB 96**, **SB 111**, with Committee Amendment attached thereto, and **SJR 7** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to an early retirement program and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.596 is amended to read as follows:

(1) Any employee hired on or before January 1, ***1992*** [~~1988~~], who is a participating member of the Kentucky Employees Retirement System and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c) or (d), or any employee hired on or before January 1, ***1992*** [~~1988~~], who is participating in the State Police Retirement System and who meets the requirements of KRS 16.505(15) or (21) may receive additional service credit equal to ten percent (10%) of his actual service credit ***including*** [~~prior to the~~] addition of service credit for accrued sick leave as provided in KRS 61.546. Any employee of a parted employer hired on or before January 1, ***1992*** [~~1988~~] who meets the requirements of KRS 61.559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit [~~earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546~~].

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall [~~not~~] be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(3) The employee shall submit a notification of retirement as prescribed in KRS 16.576(2) or 61.590(1) no earlier than July 15, ***1992*** [~~1988~~], and no later than September 30, ***1992*** [~~1988~~], except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the agency or department in which he is employed and the Department of Personnel of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than August 1, ***1992*** [~~1988~~], and not later than November 1, ***1992*** [~~1988~~]. The employee may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the Department of Personnel and his agency or department no later than September 30, ***1992*** [~~1988~~].

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of such service upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date.

(5) Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed, earning more than the Federal Social Security Act maximum for a retired person with an agency participating in the retirement system from which he retired, within a period of time equal to the amount of additional service he received under subsection (1) of this section.

(6) The Kentucky Retirement Systems shall notify all employees eligible for the provisions of this section, the Department of Personnel and each eligible employee's agency of the provisions of this section by May 1, ***1992*** [~~1988~~]. The Kentucky Retirement Systems shall conduct regional seminars between June 1 and July 31, ***1992*** [~~1988~~], to explain the provisions of this section and shall, upon the request of the eligible employee, provide an estimate of his benefits under this section.

(7) The purpose of this section is to bring expenditures in line with general fund revenues. No discrimination is intended by this section against any present or future employees. It is the intent of this section to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 2. The Finance and Administration Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the respective retirement systems for federally funded employees and employees of parted employers electing early retirement.

Section 3. Whereas, it is necessary to initiate the actions necessary to manage an early retirement program prior to July 15, 1992, in order to effect retirements by the target dates of this Act, an emergency is declared to exist and this Act shall take effect upon its passage and signature by the Governor.

The Committee Substitute to **HB 113** is as follows:

HB 113, AN ACT relating to an early retirement program and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.596 is amended to read as follows:

(1) ***Except as provided in subsection (2),*** any employee hired on or before January 1, ***1992*** [~~1988~~], who is a participating member of the Kentucky Employees Retirement System and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c) or (d), or any employee hired on or before January 1, ***1992*** [~~1988~~], who is participating in the State Police Retirement System and who meets the requirements of KRS 16.505(15) or (21) may receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 61.546. ***Except as provided in subsection (2),*** any employee of a parted employer hired on or before January 1, ***1992*** [~~1988~~] who meets the requirements of KRS 61.559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.

(2) ***The provisions of this section shall not apply to a member who has retired and who is contributing as a result of reemployment under KRS 61.637.***

(3) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(4)[~~(3)~~] The employee shall submit a notification of retirement as prescribed in KRS 16.576(2) or 61.590(1) no earlier than July 15, ***1992*** [~~1988~~], and no later than September 30, ***1992*** [~~1988~~], except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the agency or department in which he is employed and the Department of Personnel of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than August 1, ***1992*** [~~1988~~], and not later than November 1, ***1992*** [~~1988~~]. The employee may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the Department of Personnel and his agency or department no later than September 30, ***1992*** [~~1988~~].

(5)[~~(4)~~] The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of such service ***on November 1, 1992, if in a lump sum, or on November 1, 1992, and March 1, 1993, if in installments*** [~~upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date~~].

(6)[~~(5)~~] Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed, earning more than the Federal Social Security Act maximum for a retired person with an agency participating in the retirement system from which he retired, within a period of time equal to the amount of additional service he received under subsection (1) of this section.

(7)[~~(6)~~] The Kentucky Retirement Systems shall notify all employees eligible for the provisions of this section, the Department of Personnel and each eligible employee's agency of the provisions of this section by May 1, ***1992*** [~~1988~~]. The Kentucky Retirement Systems shall conduct regional seminars between June 1 and July 31, ***1992*** [~~1988~~], to explain the provisions of this section and shall, upon the request of the eligible employee, provide an estimate of his benefits under this section.

(8)[~~(7)~~] The purpose of this section is to bring expenditures in line with general fund revenues. ***For this reason, all unobligated moneys appropriated for the salary and benefits of a position vacated as a result of an employee voluntarily choosing to elect retirement under this section shall lapse as soon as all obligations are met to the appropriate fund source.***

(9) Subsection (4) notwithstanding, a state employee who would have been eligible for the early retirement program on August 1, 1992, but who was laid off solely for the purpose of revenue constraints between January 1, 1992 and August 1, 1992, shall be eligible to participate in the early retirement program as if he were an employee of the state on August 1, 1992. The Department of Personnel shall submit as soon as practicable to the Kentucky Retirement Systems the names of all state employees laid off between January 1, 1992 and August 1, 1992, due to budget constraints.

(10) No discrimination is intended by this section against any present or future employees. It is the intent of this section to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 2. The Finance and Administration Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the respective retirement systems for federally funded employees and employees of parted employers electing early retirement.

Section 3. Whereas, it is necessary to initiate the actions necessary to manage an early retirement program prior to July 15, 1992, in order to effect retirements by the target dates of this Act, an emergency is declared to exist and this Act shall take effect upon its passage and signature by the Governor.

HB 455, AN ACT relating to executive department employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service*** [~~services~~] because of his political ***activities*** or religious opinions or affiliations or ethnic origin or sex or handicap. No person ***over*** [~~between~~] the ***age*** [~~ages~~] of forty (40) [~~and seventy (70)~~] shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) ***No person shall directly or indirectly threaten a classified employee with loss of employment, denial of promotion, or with any other penalty for supporting or not supporting any political candidate or party, nor shall any person engage in a reprisal against the employee by causing his dismissal, failure to be promoted, or other penalty*** [~~No employe in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employe in the classified service.~~]

(4) ***It shall be an unlawful practice for any person to levy an assessment against a classified employee before, during, or after a political campaign.*** [~~No employe in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis~~].

Section 2. KRS 18A.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of KRS 18A.005 to ***18A.138 and 18A.145 to*** 18A.200 or of the ***administrative regulations*** [~~rules~~] shall be guilty of a misdemeanor, and shall upon conviction be punished [~~therefor~~] with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employe of the Commonwealth, shall forfeit his office or position.

(3) Any ***person*** [~~officer or employe of the classified service~~] who wilfully violates any of the provisions of KRS 18A.140 shall forfeit his office or position, and for ***five (5) years*** [~~one (1) year~~] shall be ineligible for any office or position in the Commonwealth's service. ***Any person who violates KRS 18A.140 shall be confined in the county jail for not less than six (6) months nor more than one (1) year*** [~~Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

Section 3. This Act shall be known as the Classified Employees' Political Freedom Act, or CEPFA.

The Committee Substitute to **HB 455** is as follows:

HB 455, AN ACT relating to executive department employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service*** [~~services~~] because of his political ***activities*** or religious opinions or affiliations or ethnic origin or sex or handicap. No person ***over*** [~~between~~] the ***age*** [~~ages~~] of forty (40) [~~and seventy (70)~~] shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) ***No person shall directly or indirectly threaten a classified employee with loss of employment, denial of promotion, or with any other penalty for supporting or not supporting any political candidate or party, nor shall any person engage in a reprisal against the employee by causing his dismissal, failure to be promoted, or other penalty*** [~~No employee in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service~~].

(4) ***It shall be an unlawful practice for any person to levy an assessment against a classified employee before, during, or after a political campaign.*** No employee in the classified service or member of the board or its executive director shall be [~~a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or~~] a candidate for nomination or election to any paid public office, or shall take part in the management [~~or affairs~~] of [~~any political party or in~~] any political campaign[~~, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis~~].

Section 2. KRS 18A.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of KRS 18A.005 to ***18A.138 and 18A.145 to*** 18A.200 or of the ***administrative regulations*** [~~rules~~] shall be guilty of a ***Class B*** misdemeanor[~~, and shall upon conviction be punished~~ [therefor] ~~with a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his office or position.

(3) Any ***person*** [~~officer or employee of the classified service~~] who wilfully violates any of the provisions of KRS 18A.140 shall forfeit his office or position, and for ***four (4) years*** [~~one (1) year~~] shall be ineligible for any office or position in the Commonwealth's service. ***Any person who violates KRS 18A.140 shall be guilty of a Class A misdemeanor*** [~~Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

Section 3. This Act shall be known as the Classified Employees' Political Freedom Act, or CEPFA.

HB 487, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.055 is amended to read as follows:

(1) Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles ***including boats,*** owned by the state and operated by state employees when in the conduct of official business. The commissioner of insurance, upon recommendation of the secretary of the Finance and Administration Cabinet, shall initiate and be responsible for the purchase of a blanket liability insurance policy to cover the officers and employees of the several state agencies and shall determine, by regulation, the policy limits that shall be applicable to the persons covered in each such affected agency not to exceed the limit prescribed in KRS 44.070.

(2) Nothing contained herein shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in KRS 44.070 to 44.160.

(3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

The Committee Substitute to **HB 487** is as follows:

HB 487, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

The Division of Water Patrol is authorized to purchase liability and indemnity insurance for the protection of the officers of the division when operating a motor boat owned by the division and in the conduct of official business.

SB 96, AN ACT relating to persons who are deaf or hard of hearing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

Each department, program cabinet, and administrative body of state government shall promulgate administrative regulations to provide accessibility to all services by persons who are deaf or hard of hearing in compliance with federal mandates including 29 U.S.C. 794, a part of the Rehabilitation Act of 1973, and 42 U.S.C. 12101 et seq., a part of the Americans With Disabilities Act of 1990. The administrative regulations shall require that interpreter services be provided to persons who are deaf or hard of hearing, if those persons make a timely request for the services.

SB 111, AN ACT relating to local government retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or KRS Chapter 96 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by

an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the Legislative Research Commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city or municipal agency with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or KRS Chapter 96 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621 or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal, and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of ***the*** [~~such~~] expenses in their recommendations for pension system funding, and local governments shall add payments for ***the*** [~~such~~] expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency or urban-county government may, pursuant to KRS 67A.340, 79.080, 90.410 or KRS Chapter 96 as applicable, provide for the retirement security of its employees through the creation of a money purchase or defined contribution plan qualified under section 401(a) of the Internal Revenue Code of 1954 as amended. City employee deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under section 401(a) of the Internal Revenue Code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the actuarial evaluation requirements of this section, and shall not be subject to termination for purposes of employee entry into the County Employees Retirement System, as required by KRS 78.530, 79.080, 90.410, and 96.180.

(6) No city or county, except an urban-county, or special district, nor any agency or instrumentality of a city or county or special district shall create or maintain for its officers or employees a defined benefit retirement system, which by its nature can have an unfunded liability. The provisions of this subsection shall not preclude employer contributions for city managers or other appointed local government executives who participate, pursuant to KRS 78.540, in a retirement system which operates in more than one (1) state.

Section 2. It is not the intention of the General Assembly to impair any contract by the provisions of this Act. Any city, county, or special district, or agency or instrumentality of a city, county, or special district, which maintains a defined benefit retirement system in violation of the provisions of this Act shall terminate the retirement system in a manner which does not violate a contract which it may have with any of its officers or employees.

The Committee Amendment No. 1 to **SB 111** is as follows:

Amend printed copy of **SB 111/GA** on page 4, line 8, by inserting after the word "***state***" and before the period the following:

"***, nor the continuation of a local government defined benefit retirement system which has been closed to new members but which must fulfill its obligations to current active members, retirees, and beneficiaries***".

SJR 7, A JOINT RESOLUTION directing the Commonwealth of Kentucky to display the Bicentennial Medallion Set, Serial Number 1992, in the Capitol during 1992, and to place it with the Kentucky Historical Society in 1993 to be maintained as a permanent exhibit.

WHEREAS, Kentucky's official Bicentennial Medallion, sponsored by the Community Banks of Kentucky, Inc., in cooperation with the Kentucky Bicentennial Commission, has been struck, released, and shipped to participating banks throughout Kentucky; and

WHEREAS, this medallion commemorates the 200th anniversary of Kentucky's admission to the Union, making it the fifteenth state; and

WHEREAS, no state in the Union today, unless it be Kansas, duplicated Kentucky's unreasonably long struggle for admission; and

WHEREAS, ten conventions were held over the span of eight years petitioning the mother state, Virginia, for automony; and

WHEREAS, the citizens of Kentucky are proud of their ancestor's long struggle for independence;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Bicentennial Medallion Set, Serial Number 1992, be displayed in the New Capitol during the year 1992, and then be placed with, and maintained by, the Kentucky Historical Society as a permanent exhibit.

Section 2. Moneys for the 1992 display shall come from the Kentucky Bicentennial Commission's budget. Monies for the permanent display shall come from the Kentucky Historical Society's budget. Said funds are hereby appropriated.

The Committee on Transportation reported **HB 437**, **HJR 23**, **HJR 73** and **SB 50**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 437, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

All public entities operating under the provisions of any regular route bus certificate issued pursuant to this chapter shall provide service to disabled persons as required by federal regulations promulgated pursuant to the Americans with Disabilities Act of 1990, as amended (Public Law 101-336).

HJR 23, A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge on Interstate 24 connecting Marshall and Livingston Counties for the late George Luther Draffen.

WHEREAS, Mr. Draffen, a dedicated entrepreneur and civic leader, recognized the need to improve the economic and industrial climate in Western Kentucky in the early 1930's; and

WHEREAS, Mr. Draffen served as president of the Lower Tennessee Valley Authority and played a key role in lobbying efforts that resulted in the building of the Kentucky Dam and several other major developments; and

WHEREAS, the Kentucky Dam provided the citizens of Western Kentucky with badly needed power and made this region more attractive for tourism and industry; and

WHEREAS, upon completion of the dam, Mr. Draffen sought ever more diligently to attract business and industry to Western Kentucky, such as the B. F. Goodrich Chemical Plant which located in Calvert City in 1953; and

WHEREAS, Luther Draffen, who firmly believed that "providence had a way", was a truly gifted and dedicated citizen of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of Transportation shall name the bridge on Interstate 24 connecting Marshall and Livingston Counties the "Luther Draffen Bridge" in honor of the late George Luther Draffen.

Section 2. That copies of this Resolution be delivered to the Secretary of the Transportation Cabinet, the Governor, and the Chief District Engineer of the District 1 Highway Office.

HJR 73, A JOINT RESOLUTION honoring former Senator Woodford Franklin "Woody" May and naming Kentucky Highway #519, the Woody May Highway.

WHEREAS, Senator Woody May represented the citizens of Eastern Kentucky for over two decades, first serving in the House of Representatives from 1968 to 1980, and then in the Senate from 1982 to 1991; and

WHEREAS, Senator May has exemplified the highest commitment to his wife and children as well as to the many citizens he has served; and

WHEREAS, Senator May also benefitted the citizens of the 27th Senatorial District through his service on the Committees of Transportation, Banking and Insurance, and State Government, the Small Business Task Force, and the Subcommittee on Veterans Affairs; and

WHEREAS, Senator May served as the Senate Chairman of the Interim Joint Committee on Transportation from 1986 until his retirement, and through his leadership helped to build a new road from the Ohio River near Maysville to the Mountain Parkway in Eastern Kentucky with the road going over the Clack Mountain; and

WHEREAS, Senator May has courageously fought to recover from the illness which has since caused his retirement from the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That Kentucky Highway #519 connecting Morehead to West Liberty be renamed the Woody May Highway.

Section 2. That the House of Representatives wishes Senator Woody May continued improvement in his recovery.

Section 3. That a copy of this Resolution be transmitted to the Transportation Cabinet.

Section 4. That a copy of this Resolution be sent to Senator Woodford "Woody" Franklin May, Route 1 Box 736, West Liberty, Kentucky 41472.

SB 50, AN ACT related to railroads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall investigate any public grade crossing not equipped with gates, with an average daily traffic of four thousand (4,000) or more, at which two (2) or more accidents involving a train and a vehicle have occurred in a consecutive five (5) year period. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After receiving local government comments, the cabinet shall either install gates at the crossing, or shall condemn and close the crossing if:

(a) An alternative route meeting requirements of public safety and necessity is no more than one (1) city block from a condemned crossing within an incorporated city limit; or

(b) If outside an incorporated city limit, a safe and adequately maintained alternate route exists that will require a motorist to drive no more than one (1) highway mile to resume travel on the affected road or highway.

(2) The cost of installing gates, and the cost associated with the condemnation and closing of a railway crossing including without limitation any cost of construction improvements to alternative routes, shall be the responsibility of the cabinet and railroad in accordance with KRS 277.065 and shall not be charged to any unit of local government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

If a warning device at a grade crossing is activated, for a period of thirty (30) minutes or more, in the absence of an approaching train, due to track maintenance or train movements in the vicinity, and the railroad company responsible is unable to disengage the warning device, then the company shall position a flagman at the affected intersection.

Section 3. KRS 189.560 is amended to read as follows:

(1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when ***any of the following conditions exist:***

(a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;

(b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;

(c) An approaching train is visible and in hazardous proximity; or

(d) A human flagman signals [~~a crossing gate is lowered or when a flagman gives a signal of~~] the approach or passage of a train.

(2) Whenever the tracks of any railroad or interurban railway over which [~~regularly scheduled~~] trains or cars are ***regularly*** operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop at not less than ten feet (10′), nor more than thirty feet (30′), from the nearest rail of the tracks.

(3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position or if the stopping position is not marked, on the pavement not more than 25′ in advance of the track an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than 10″ in height.

(4) ***The cabinet shall install*** [~~Railroad or interurban companies shall furnish and deliver at crossings designated by the cabinet as "unsafe,"~~] the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.

(5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.

(6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.

(7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, [~~subsection (1) of KRS 189.560,~~] KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense~~].

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be ***guilty of a Class B misdemeanor*** [~~fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both~~].

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(2) shall be fined fifty dollars ($50).

(25) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(26) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 5. KRS 277.190 is amended to read as follows:

Every railroad company shall provide each locomotive engine running over any of its lines with a bell of ordinary size and a whistle. The bell shall be rung or the whistle sounded[~~, outside of cities,~~] at a distance of at least fifty (50) rods from the place where the track crosses upon the same level any highway or crossing at which a signboard is required to be maintained, and the bell shall be rung or the whistle sounded continuously or alternately until the engine has reached the highway or crossing. ***No legislative body of any city or urban-county government shall prohibit the sounding of train whistles within the limits of its jurisdiction*** [~~In cities such signals shall be given as the legislative body of the city requires~~].

Section 6. KRS 177.120 is amended to read as follows:

(1) Whenever the department considers it necessary for the public safety, it may order any railroad company, either steam or electric, owning or operating a railroad in this state, to eliminate any grade crossing or change any existing overhead or underpass structure where ***any public*** [~~the primary~~] road crosses the railroad tracks of ***the*** [~~such~~] company. The department may determine ***whether a substitute crossing should be established and if so,*** the location of the crossing to be substituted, [~~the grade thereof,~~] and whether it shall pass over or under the railroad tracks ***or intersect them at grade.***

(2) In accordance with this section, the department shall promulgate administrative regulations by December 1, 1992, that contain standards governing the establishment, vacation, relocation, consolidation, and separation of grades at public grade crossings. In adopting standards, the department shall request and consider written comments from affected local governments and shall consider that the number of redundant and inherently dangerous grade crossings in this state should be reduced and that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.

(3) On or before July 1, 1993, and on or before July 1 of each of the next four (4) years, and as necessary thereafter, the department shall compose a list of grade crossings proposed to be vacated. The list shall be developed by applying the standards set forth in the administrative regulations adopted under subsection (2) of this section. Grade crossings that are part of an abandonment, closing, or removal shall not be included in the list. The department shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed vacations. Either affected party may request a hearing, and if requested, the department shall hold a contested case hearing applying in its determination the administrative regulations developed under subsection (2) of this section.

(4) If after the hearing the department determines that the vacation is consistent with the standards adopted under subsection (2) of this section, it may order the crossing vacated. If a request for a hearing on a particular crossing is not received within thirty (30) days of the publication in the Kentucky Administrative Register, the department shall order the crossing vacated.

Section 7. KRS 177.130 is amended to read as follows:

[~~(1)~~] ***If*** the department ***finds that a crossing proposed for vacation should be replaced with another grade crossing or a grade separation, it*** shall give at least ten (10) days' notice by certified mail, return receipt requested to the railroad company ***and to the chief executive officer of the affected unit of local government*** of a hearing to be held at a time and place stated in the notice. ***At the*** [~~, at which~~] hearing ***the department*** [~~it~~] shall consider whether or not the proposed grade separation or ***substitute crossing*** [~~change~~] is reasonably necessary and the most advantageous method of ***enhancing*** [~~effecting~~] the ***public convenience and necessity*** [~~grade separation or change~~]. If the department finds that the grade separation or ***substitute crossing*** [~~change~~] is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by certified mail, return receipt requested to the railroad company ***and to the chief executive officer of the affected unit of local government.*** The order shall specify the location of the crossing to be substituted ***and*** [~~, the grade thereof,~~] whether it shall pass over or under the railroad tracks ***or intersect them at grade,*** the width of the crossing and the angle at which the crossing shall meet and converge into the roadbed on either side of the railroad tracks. The order may direct the railroad company to prepare plans, specifications and estimates of cost for the grade separation or ***substitute crossing*** [~~change~~] in accordance with the general plan prescribed by the order. The order may provide that the plans, specifications and estimates of cost shall be prepared by the department.

[~~(2) When a primary road is relocated and the grade is separated and the new underpass or overhead bridge is located at some point other than the old grade crossing, and when it is necessary that the original grade crossing on the old road be left in for the accommodation of the local public to be used as a county road or private road leading into the primary road, the department shall not take any of the responsibility for the closing of the grade crossing, but its status shall be left to the discretion of the county officials and the railroad company.~~]

Section 8. KRS 177.010 is amended to read as follows:

As used in KRS 177.010 to 177.890, unless the context otherwise requires:

(1) "Department" means Department of Highways of the Commonwealth of Kentucky.

(2) "Construct" includes reconstruct and improve; [~~and~~]

(3) "Roads" includes rural roads; highways; bridges and bridge approaches; city streets, viaducts and bridges***; and***

(4) "Public grade crossing" means the at-grade intersection of a railroad track or tracks and a road or highway that has been dedicated to public use and incorporated into either the state primary road system or the highway or road system of a county or municipality.

The Committee Amendment No. 1 to **SB 50** is as follows:

Amend printed copy of **SB 50/GA** on page 1, line 7, after the word "***period***" and before the "." insert the following:

"***, beginning January 1, 1986***".

The Committee on Health and Welfare reported **HB 153**, with Committee Substitute attached thereto, **HB 283**, with Committee Substitute attached thereto, **HB 323**, with Committee Substitute attached thereto, and **HJR 94** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 153, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

Every prescription dispensed by a pharmacist in this Commonwealth after the effective date of this Act shall bear upon the label the name and business address of the prescribing practitioner.

The Committee Substitute to **HB 153** is as follows:

HB 153, AN ACT relating to prescription drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Every prescription order written by a practitioner authorized by statute to prescribe under this chapter and KRS Chapter 218A shall bear upon the prescription blank the name, telephone number, and business address of the prescribing practitioner.

HB 283, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 308 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations shall annually provide written notice to enrollees of any financial or other incentives designed to control costs that are offered by the health maintenance organization to physicians, health care facilities, or other health care providers with whom the health maintenance organization has an arrangement to provide health services.

Section 2. KRS 216B.250 is amended to read as follows:

(1) For purposes of this section*:*[~~,~~]

(a) "[~~paying~~] Patient" means persons receiving health care services who pay directly for services rendered, patients with private health insurance or health maintenance organization coverage, persons receiving Medicaid or Medicaid benefits under Title XVIII and Title XIX of the Social Security Act and persons receiving veteran's health care benefits. "[~~Paying~~] Patient" does not include medically indigent persons with no source of payment whatsoever*;*

(b) "Health care provider" or "provider" means any individual, institution, agency, or health facility licensed, certified, or registered to provide health related services in Kentucky.

(2) ***All health care providers shall furnish to the patient*** [~~When a copy of an itemized statement is requested by any paying patient, each health facility shall furnish to the patient within thirty (30) days of the patient's discharge or within fifteen (15) days of the patient's request, whichever is later,~~] one (1) copy free of charge

of the itemized statement of services rendered and charges incurred by the patient. ***The itemized statement shall be prepared in such a manner so as to be clearly understandable to the patient.*** The itemized statement shall be stamped "Kentucky Revised Statutes prohibit the use of this statement for insurance payment purposes where benefits have been assigned." ***No provider shall submit a claim for payment to a third party payor or a patient, unless the patient has signed a receipt indicating the patient has received a copy of the itemized statement for the services relating to the claim.***

(3) Each ***provider*** [~~health facility~~] shall post in a publicly visible place ***a notice that states "Kentucky law requires patients be given an itemized statement for services before payment is made"*** [~~in their admission, outpatient areas and, where applicable, emergency areas that an itemized statement is available to any paying patient upon request~~].

(4) The itemized statement rendered shall be the record maintained by the ***provider*** [~~health facility~~] that details the charges made for services rendered to patients and shall indicate whether an assignment of benefits has been obtained.

(5) Each health ***care provider*** [~~facility~~] shall [~~designate and~~] make available appropriate staff to provide, upon patient request, an explanation of charges listed in the itemized statement.

(6) If a health ***care provider*** [~~facility~~] knows of a discrepancy in the total charges as reported in an itemized statement and that which is reported to a third party payor, or at any time that a health ***care provider*** [~~facility~~] becomes aware of such a discrepancy, the ***provider*** [~~health facility~~] shall provide the patient and third party payor with notification, an explanation and, if applicable, any reconciliation of the discrepancy in total charges.

Section 3. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health ***care provider who*** [~~facility which~~] willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement [~~within the required time frames~~].

(7) Any existing boarding home which does not register within six (6) months of July 13, 1990, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered. New boarding homes which begin operations after July 13, 1990, shall register within thirty (30) days of beginning operations; those failing to register shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered, beginning with the thirty-first day of their operations.

The Committee Substitute to **HB 283** is as follows:

HB 283, AN ACT relating to health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 308 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations shall upon request by an enrollee provide written notice to that enrollee of any financial incentives designed to control costs that are offered by the health maintenance organization to physicians, health care facilities, or other health care providers with whom the health maintenance organization has an arrangement to provide health services.

Section 2. KRS 216B.250 is amended to read as follows:

(1) For purposes of this section***:***[~~,~~]

(a) "[~~paying~~] Patient" means persons ***or their responsible parties*** receiving health care services who pay directly for services rendered, patients with private health insurance or health maintenance organization coverage, persons receiving Medicaid or Medicaid benefits under Title XVIII and Title XIX of the Social Security Act and persons receiving veteran's health care benefits. "[~~Paying~~] Patient" does not include medically indigent persons with no source of payment whatsoever***;***

(b) "Health care provider" or "provider" means any individual, institution, agency, or health facility licensed, certified, or registered to provide health related services in Kentucky.

(2) ***All health care providers shall furnish to the patient*** [~~When a copy of an itemized statement is requested by any paying patient, each health facility shall furnish to the patient within thirty (30) days of the patient's discharge or within fifteen (15) days of the patient's request, whichever is later,~~] one (1) copy free of charge of the itemized statement of services rendered and charges incurred by the patient. ***The itemized statement shall be provided to the patient on or before the time the health care provider submits a claim for payment to a third-party payor. The itemized statement shall be prepared in such a manner so as to be clearly understandable to the patient.*** The itemized statement shall be stamped "Kentucky Revised Statutes prohibit the use of this statement for insurance payment purposes where benefits have been assigned."

(3) Each ***provider*** [~~health facility~~] shall post in a publicly visible place ***a notice that states "Kentucky law requires patients be given an itemized statement for services before payment is made"*** [~~in their admission, outpatient areas and, where applicable, emergency areas that an itemized statement is available to any paying patient upon request~~].

(4) The itemized statement rendered shall be the record maintained by the ***provider*** [~~health facility~~] that details the charges made for services rendered to patients and shall indicate whether an assignment of benefits has been obtained.

(5) Each health ***care provider*** [~~facility~~] shall [~~designate and~~] make available appropriate staff to provide, upon patient request, an explanation of charges listed in the itemized statement.

(6) If a health ***care provider*** [~~facility~~] knows of a discrepancy in the total charges as reported in an itemized statement and that which is reported to a third party payor, or at any time that a health ***care provider*** [~~facility~~] becomes aware of such a discrepancy, the ***provider*** [~~health facility~~] shall provide the patient and third party payor with notification, an explanation and, if applicable, any reconciliation of the discrepancy in total charges.

(7) This section shall be administered by the Division of Licensing and Regulation within the Cabinet for Human Resources.

Section 3. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health ***care provider who*** [~~facility which~~] willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement [~~within the required time frames~~].

(7) Any existing boarding home which does not register within six (6) months of July 13, 1990, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered. New boarding homes which begin operations after July 13, 1990, shall register within thirty (30) days of beginning operations; those failing to register shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered, beginning with the thirty-first day of their operations.

HB 323, AN ACT relating to health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and 314.991, unless the context thereof requires otherwise:

(1) "Administration of medication" means the act of giving drugs in accordance with the prescription of those authorized by law to prescribe.

(a) Components of medication administration include, but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route and frequency;

2. Observing, recording and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications.

(b) A nurse may delegate selected components of administration of oral and topical medications pursuant to administrative regulations promulgated by the board in accordance with provisions of KRS Chapter 13A.

(2) "Board" shall mean Kentucky board of nursing.

(3) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision.

(4)[~~(2)~~] "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(5)[~~(3)~~] "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation and evaluation based on nationally accepted standards of nursing practice.

(6)[~~(4)~~] "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(7)[~~(5)~~] "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment and nursing skill based upon the principles of psychological, biological, physical and social sciences in the application of the nursing process in:

(a) The care, counsel and health teaching of the ill, injured or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed by a physician or dentist [~~licensed in this state~~] and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.

(d) The supervision and teaching of other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.

(8)[~~(6)~~] "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including but not limited to the nurse anesthetist, nurse midwife and nurse practitioner pursuant to KRS 314.042.

(9)[~~(7)~~] "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized post-basic program of study and clinical experience and who are certified by the American nurses' association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by regulation.

(10)[~~(8)~~] "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.

(11)[~~(9)~~] "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured or infirm under the direction of a registered nurse, a licensed physician or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician or dentist [~~licensed in this state~~] and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

(d) Teaching or supervising except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

(12)[~~(10)~~] "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(13)[~~(11)~~] "Continuing education" shall mean [~~participation in approved~~] offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(14)[~~(12)~~] "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(15)[~~(13)~~] "Limited license" shall mean a license to practice nursing in a restricted capacity. The restriction may be applied to:

(a) A person with a ***disability*** [~~handicap~~] who can practice nursing within the limits defined by regulation by the board; or

(b) A licensee who has been subjected to disciplinary action by the board.

Section 2. KRS 314.025 is amended to read as follows:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships in Kentucky nursing programs to ***financially needy*** [~~low-income,~~ ~~unemployed~~] residents and licensed practical nurses of the Commonwealth.

Section 3. KRS 314.026 is amended to read as follows:

(1) The board shall make nursing scholarships in ***schools of nursing and graduate programs in nursing*** [~~programs of practical nursing and in two (2) and four (4) year nursing degree schools in Kentucky nursing programs~~] available to Kentucky residents through the Kentucky Nursing Incentive Scholarship Fund, as set forth by KRS 314.025 to 314.027 and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.

(2) The board shall administer the Kentucky Nursing Incentive Scholarship Fund and may recover reasonable costs for administering the fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in KRS 314.025 to 314.027 and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the Kentucky Nursing Incentive Scholarship Fund Committee to be comprised of six (6) members, one (1) registered nurse, and one (1) licensed practical nurse licensed to practice in the Commonwealth who shall be appointed by the board, and one (1) representative each from the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Association of Health Care Facilities, and the board, which shall designate the persons to receive assistance and the amount thereof. Decisions of the Kentucky Nursing Incentive Scholarship Fund Committee in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board, sponsoring health facility, and the applicant. Preference in funding shall be given to applicants who have agreed to work in hospitals, ***nursing facilities,*** skilled nursing facilities, intermediate care facilities, or primary care centers in rural areas of the state.

(4) [~~The board shall be responsible for contracting with approved applicants.~~] The [~~maximum~~] yearly individual nursing scholarship award granted shall be ***determined annually by the Kentucky Nursing Incentive Scholarship Fund Committee. In no case may an award exceed the amount of the highest tuition charged by a public institution in the Commonwealth offering a prelicensure program*** [~~no higher than the yearly tuition rate charged for a comparable program offered by a public institution in the Commonwealth~~].

Section 4. KRS 314.027 is amended to read as follows:

(1) Funding for the Kentucky Nursing Incentive Scholarship Fund shall be supplied partly by funds received from penalties and fines, to include, but not be limited to, certificate of need penalties assessed on primary care centers, hospitals, ***nursing facilities,*** and skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2). All funds dispersed to a qualified applicant shall be matched by the sponsoring health facility participating as the applicant's sponsor in the Kentucky Nursing Incentive Scholarship Fund Program. ***In the event a sponsoring health facility is unable to match entirely the award granted by the Kentucky Nursing Incentive Scholarship Fund Committee, the sponsor, the applicant, and the committee may agree to award a lesser amount.***

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be annually allocated to the Kentucky Nursing Incentive Scholarship Fund. [~~At least twenty-five percent (25%) of said proceeds shall be earmarked for financial assistance to licensed practical nurses seeking registered nurse licensure, whether in a two (2) or four (4) year program.~~]

(3) Any individual designated as a recipient and accepted for a nursing scholarship provided for under KRS 314.025 to 314.027, shall, upon completion of the nursing program, be required by contract to practice in Kentucky as a registered nurse or licensed practical nurse in the sponsoring health facility for one (1) year for each academic year of education received. The contract shall include such terms and conditions specified by the board to carry out the purpose and intent of KRS 314.025 to 314.027 and shall be signed by the board president or executive director, sponsoring health facility, and the applicant.

(4) The board may cancel any contract between it and any applicant or recipient upon failure by the applicant or recipient to meet requirements of KRS 314.025 to 314.027 or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky Nursing Incentive Scholarship Fund.

Section 5. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed at least an approved four (4) year high school course of study or the equivalent thereof; has completed the basic curriculum for preparing registered nurses in an approved school of nursing and holds a diploma therefrom; [~~and~~] has fulfilled the requirements of KRS 214.615(1)***; and is able to understandably speak and write the English language and to read the English language with comprehension.***

(2) An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination shall be received by the board at such time as prescribed by regulation by the board. [~~Upon successfully passing the examination, the board shall issue to the applicant a license to practice nursing as a registered nurse.~~]

(3) The board shall meet for the purpose of conducting examinations of applicants for licensure as registered nurses at least once a year, at a time and place determined by the board. [~~Notices of the examinations shall be published in two (2) newspapers with statewide circulation.~~] Notices shall be sent by mail to every applicant after applications are received, and to every approved school of nursing in this state at least sixty (60) days prior to the examination.

(4) ***Graduates of foreign nursing schools shall be required to successfully complete the Commission on Graduates of Foreign Nursing Schools examination before they may take the examination prescribed by the board.***

(5) Upon successfully completing all requirements for licensure, the board shall issue to the applicant a license to practice nursing as a registered nurse.

(6) The board may issue a license to practice nursing as a registered nurse to an applicant who has passed the state board test pool exam or an equivalent examination approved by the board and been licensed as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant is qualified to practice professional nursing in this state.

(7)[~~(5)~~] The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(8)[~~(6)~~] Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(9)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(10)[~~(8)~~] Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(11)[~~(9)~~] A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 6. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed an organized post-basic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); [~~and~~] is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced nursing practice***; and is able to understandably speak and write the English language and to read the English language with comprehension***.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner or such other designation as determined by the board.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume such title or use the abbreviation or any other words, letters, signs or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board.

Section 7. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant***:***

(a) Is in good physical and mental health***;***[~~,~~]

(b) Has completed at least an approved four (4) year high school course of study or its equivalent***;***[~~,~~]

(c) Has fulfilled the requirements of KRS 214.615(1)***;*** [~~and~~]

(d) Has completed the required educational program in practical nursing at an approved school of nursing and holds a diploma or certificate therefrom***; and***

(e) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board shall meet for the purpose of conducting examinations of applicants for licensure as licensed practical nurses at least once a year, at a time and place determined by the board. [~~Notices of the examinations shall be published in two (2) newspapers with statewide circulation.~~] Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least sixty (60) days prior to the examination.

(3) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(4) An applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination shall be received by the board at the time as prescribed by regulation by the board. [~~Upon successfully passing the examination the board shall issue to the applicant a license to practice as a licensed practical nurse.~~]

(5) ***Upon successfully completing all requirements for licensure, the board shall issue to the applicant a license to practice as a licensed practical nurse.***

(6) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the ***examination prescribed by the board or its equivalent,*** [~~state board test pool exam or an equivalent examination approved by the board~~] and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(7)[~~(6)~~] Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(8)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(9)[~~(8)~~] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(10)[~~(9)~~] A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 8. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document the completion of continuing education requirements not to exceed thirty (30) contact hours in a given licensure period as prescribed in regulations promulgated by the board. A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.

(2) Contact hours required to satisfy the continuing education requirement shall be completed and reported in accordance with board requirements set forth by regulation.

(3) ***The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A*** [~~Providers of continuing education shall be approved by the board. Only continuing education activities approved by the board shall satisfy continuing education requirements stated in this section~~].

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall [~~maintain continuing education records and it shall~~] be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

(6) The continuing education shall include the completion of the course described in KRS 214.610(1).

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing education requirements, the board may charge reasonable fees as established by regulation ***in accordance with the provisions of KRS Chapter 13A.***

Section 9. KRS 314.089 is amended to read as follows:

(1) [~~A hearing panel of~~] The ***board's president or the president's designee*** [~~board~~] may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that ***this*** [~~such~~] action may be necessary, the executive director ***or the executive director's designee*** shall ***issue an order suspending the nurse's license. The order shall state the grounds upon which the board's president or designee is relying. The order shall be served on the named nurse by certified mail or by personal delivery but shall be effective when issued*** [~~cause to be issued to the licensee a written notice setting forth the basis for the action and the date, time and location for a hearing before a panel of the board. The hearing date shall be at least ten (10) days from the date the notice is mailed by first class to the last known address of the licensee~~].

(2) ***Upon request of the named nurse, the board shall schedule a hearing in regard to the order within fifteen (15) days of the request. The hearing may be held before a hearing panel or before a hearing officer appointed by the board.*** The issue to be decided at the hearing is whether reasonable cause exists for the immediate temporary suspension of a license in order to protect the public pending the outcome of the underlying disciplinary action or investigation. ***Within five (5) days after conclusion of the hearing, the panel or hearing officer shall issue an order affirming or retracting the original order*** [~~The subpoena powers and procedures applicable to regular disciplinary hearings shall apply except for the provisions by regulation for prehearing disclosure of evidence.~~

~~(3) The determination of the hearing panel shall be reported to the board for ultimate decision in the same manner as in regular disciplinary proceedings.~~

~~(4) A determination by the hearing panel that reasonable cause exists for the immediate temporary suspension of a license shall operate to suspend that license as of the hearing date. Continued practice after that date shall be dealt with as the unlicensed practice of nursing~~].

(3)[~~(5)~~] No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(4)[~~(6)~~] The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(5)[~~(7)~~] The [~~hearing panel~~] order of immediate temporary suspension shall remain in effect until ***either retracted*** [~~overturned by the board~~] or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

Section 10. KRS 314.091 is amended to read as follows:

(1) The board shall have power to deny, limit, revoke, probate or suspend any license to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;

(c) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(d) Is unfit or incompetent to practice nursing by reason of negligence or other causes including but not limited to being unable to practice nursing with reasonable skill or safety;

(e) Abuses use of controlled substances or has misused or misappropriated any drugs placed in the custody of the nurse for medication, or use of others;

(f) Has falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on essential records;

(g) Has a license to practice as a nurse denied, limited, suspended, probated or revoked in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated or revoked in this Commonwealth; or

(h) Has willfully or repeatedly violated any of the provisions of this chapter.

(2) In all hearings for denial, limitation, probation, suspension or revocation of the license of a registered or practical nurse, the licensee shall be furnished with a copy of the charges and shall be given at least thirty (30) days to prepare defense, except in the case of temporary suspension as set out in KRS 314.089. The person charged shall be heard by the board or its designated hearing officer in person or by counsel, or both, as may be desired. The presiding officer of the hearing may administer the oath in any manner arising in the course of duties. In the hearing the board may take oral or written proof for or against the aggrieved person. A suspended or revoked license may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents. Said subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) The board, or any member thereof, may administer oaths, take testimony, hear proof and receive exhibits in evidence at the hearing.

(5) The board shall not be bound by technical rules of evidence.

(6) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(7) At all hearings on request of the board the attorney general of this state or one (1) of his assistants designated by him shall appear and represent the board.

(8) The decision of the board shall be by majority vote thereof.

(9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court ***of the county in which the board's offices are located*** within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the executive director of the board and thereupon the executive director shall certify and file in the court a transcript of the record upon which the order complained of was entered. No new or additional evidence shall be introduced in the court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive director of the nursing board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determine whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity.

Section 11. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a board of nursing consisting of twelve (12) members. Seven (7) members shall be registered nurses licensed to practice in the Commonwealth. Three (3) shall be practical nurses licensed to practice in the Commonwealth. One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth. One (1) member shall be a citizen at large, who is not associated with or financially interested in the practice or business regulated. Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. Each year two (2) registered nurse terms and one (1) licensed practical nurse term shall expire on June 30, except that every fourth year one (1) registered nurse term and one (1) consumer term shall expire on June 30. By March 1 the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1. By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky ***Organization of Nurse Executives*** [~~Society for Hospital~~

~~Nursing Service Administrators~~], an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1. By March 1, [~~1989,~~] the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1[~~, 1989. This appointment may be made at any time after July 15, 1988 but not later than the date specified herein~~].

(2) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(3) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(4) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Four (4) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; and one (1) shall be in nursing administration.

(5) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, and have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment.

(6) The Governor shall appoint an advisory council to the board consisting of seven (7) members to be selected one (1) each from lists submitted by Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, Kentucky Nurses Association, Kentucky State Association of Licensed Practical Nurses, Kentucky Dental Association and Kentucky Pharmacists Association. The council shall function in an advisory capacity only as a constructive force in establishing and maintaining standards of nurse competency and licensure regulations in the interest of public protection, and, in this connection shall be provided with copies of any proposed regulations of the board [~~at least thirty (30) days prior to their filing with the legislative research commission~~]. The terms shall be for four (4) years. Two (2) shall be appointed each year except every fourth year when only one (1) shall be appointed.

SECTION 12. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit, is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental or physical examination by a physician or psychologist it designated. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 until such time as the person submits to the required examination.

(2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit, shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.

(3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit, shall bear the cost of any mental or physical examination ordered by the board.

Section 13. KRS 333.150 is amended to read as follows:

A medical laboratory shall examine human specimens only at the request of a licensed physician, podiatrist, dentist, ***state occupational or professional licensure board,*** or other person authorized by law to use the findings of medical laboratory examinations. The results of a test shall be reported directly to the licensed physician, dentist, or other authorized person who requested it. Such report shall include the name of the director and the name and address of the medical laboratory in which the test was actually performed. All specimens accepted by a medical laboratory shall be tested on the premises except that specimens for infrequently performed tests may be forwarded for examination to another medical laboratory licensed under this chapter or to a medical laboratory located outside this state if licensed or approved by the appropriate agency of the state concerned.

Section 14. KRS 314.991 is amended to read as follows:

(1) Any person who violates any provision of this chapter for which no other penalty has been provided shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Each day he violates any provisions of this chapter shall be considered a separate offense.

(2) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be fined not more than five hundred dollars ($500).

(3) For any violation of this chapter where the board has the power to deny, revoke, probate, limit or suspend a license, the board may, in lieu thereof or in addition to other remedies impose a civil penalty against the violator of not more than ***ten thousand dollars ($10,000)*** [~~one thousand dollars ($1,000)~~].

(4) Any person who knowingly violates KRS 314.031(1) shall, for the first occurrence, be imprisoned for not more than twelve (12) months or fined not more than five hundred dollars ($500), or both.

(5) Any person who knowingly violates KRS 314.031(1) on a second or subsequent occasion shall be imprisoned for not more than five (5) years or fined not more than ten thousand dollars ($10,000), or both.

(6) Any unlicensed person who knowingly poses as someone else who does hold a license under this chapter shall be guilty of a violation of KRS 314.031(1), and the penalties set out in subsections (4) and (5) of this section all apply to such conduct.

(7) In addition to the penalties provided in subsections (4) and (5) of this section, the board may impose civil penalties for violations of KRS 314.031(1) in an amount equal to one hundred dollars ($100) for each day during which a violation occurred or continued.

(8) All civil penalties received and collected by the board shall be deposited with the state treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.

(9) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the circuit court.

(10) Whenever the board has reason to believe that any person is in violation or is about to violate any provision of this chapter, it may seek a restraining order, temporary or permanent injunction, or other civil remedy against such person in the circuit court.

(11) In order to obtain a temporary or permanent restraining order, or other equitable remedy, it shall not be necessary to allege or prove that an adequate remedy at law does not exist, nor shall it be necessary to allege or prove that irreparable injury, loss, or damage will result if the injunctive relief is denied. Further, it shall not be necessary to allege or prove that criminal action has been first instituted.

The Committee Substitute to **HB 323** is as follows:

HB 323, AN ACT relating to health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and 314.991, unless the context thereof requires otherwise:

(1) "Board" shall mean Kentucky Board of Nursing.

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

(3)[~~(2)~~] "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(4)[~~(3)~~] "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation and evaluation based on nationally accepted standards of nursing practice.

(5)[~~(4)~~] "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(6)[~~(5)~~] "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment and nursing skill based upon the principles of psychological, biological, physical and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed by a physician or dentist [~~licensed in this state~~] and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. ***Components of medication administration include, but are not limited to:***

1. Preparing and giving medications in the prescribed dosage, route, and frequency;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications.

(d) The supervision, [~~and~~] teaching of***, and delegation to*** other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.

(7)[~~(6)~~] "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including but not limited to the nurse anesthetist, nurse midwife and nurse practitioner pursuant to KRS 314.042.

(8)[~~(7)~~] "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized post-basic program of study and clinical experience and who are certified by the American nurses' association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by regulation.

(9)[~~(8)~~] "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.

(10)[~~(9)~~] "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured or infirm under the direction of a registered nurse, a licensed physician or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician or dentist [~~licensed in this state~~] and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

(d) Teaching***,*** [~~or~~] supervising***, and delegating*** except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

(11)[~~(10)~~] "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(12)[~~(11)~~] "Continuing education" shall mean [~~participation in approved~~] offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(13)[~~(12)~~] "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(14)[~~(13)~~] "Limited license" shall mean a license to practice nursing in a restricted capacity. The restriction may be applied to:

(a) A person with a ***disability*** [~~handicap~~] who can practice nursing within the limits defined by regulation by the board; or

(b) A licensee who has been subjected to disciplinary action by the board.

Section 2. KRS 314.025 is amended to read as follows:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships in Kentucky nursing programs to ***financially needy*** [~~low-income, unemployed~~] residents and licensed practical nurses of the Commonwealth.

Section 3. KRS 314.026 is amended to read as follows:

(1) The board shall make nursing scholarships in ***schools of nursing and graduate programs in nursing*** [~~programs of practical nursing and in two (2) and four (4) year nursing degree schools in Kentucky nursing programs~~] available to Kentucky residents through the Kentucky Nursing Incentive Scholarship Fund, as set forth by KRS 314.025 to 314.027 and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.

(2) The board shall administer the Kentucky Nursing Incentive Scholarship Fund and may recover reasonable costs for administering the fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in KRS 314.025 to 314.027 and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the Kentucky Nursing Incentive Scholarship Fund Committee to be comprised of six (6) members, one (1) registered nurse, and one (1) licensed practical nurse licensed to practice in the Commonwealth who shall be appointed by the board, and one (1) representative each from the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Association of Health Care Facilities, and the board, which shall designate the persons to receive assistance and the amount thereof. Decisions of the Kentucky Nursing Incentive Scholarship Fund Committee in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board, sponsoring health facility, and the applicant. Preference in funding shall be given to applicants who have agreed to work in hospitals, ***nursing facilities,*** skilled nursing facilities, intermediate care facilities, or primary care centers in rural areas of the state.

(4) [~~The board shall be responsible for contracting with approved applicants.~~] The [~~maximum~~] yearly individual nursing scholarship award granted shall be ***determined annually by the Kentucky Nursing Incentive Scholarship Fund Committee. In no case may an award exceed the amount of the highest tuition charged by a public institution in the Commonwealth offering a prelicensure program*** [~~no higher than the yearly tuition rate charged for a comparable program offered by a public institution in the Commonwealth~~].

Section 4. KRS 314.027 is amended to read as follows:

(1) Funding for the Kentucky Nursing Incentive Scholarship Fund shall be supplied partly by funds received from penalties and fines, to include, but not be limited to, certificate of need penalties assessed on primary care centers, hospitals, ***nursing facilities,*** and skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2). All funds dispersed to a qualified applicant shall be matched by the sponsoring health facility participating as the applicant's sponsor in the Kentucky Nursing Incentive Scholarship Fund Program. ***In the event a sponsoring health facility is unable to match entirely the award granted by the Kentucky Nursing Incentive Scholarship Fund Committee, the sponsor, the applicant, and the committee may agree to award a lesser amount.***

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be annually allocated to the Kentucky Nursing Incentive Scholarship Fund. [~~At least twenty-five percent (25%) of said proceeds shall be earmarked for financial assistance to licensed practical nurses seeking registered nurse licensure, whether in a two (2) or four (4) year program.~~]

(3) Any individual designated as a recipient and accepted for a nursing scholarship provided for under KRS 314.025 to 314.027, shall, upon completion of the nursing program, be required by contract to practice in Kentucky as a registered nurse or licensed practical nurse in the sponsoring health facility for one (1) year for each academic year of education received. The contract shall include such terms and conditions specified by the board to carry out the purpose and intent of KRS 314.025 to 314.027 and shall be signed by the board president or executive director, sponsoring health facility, and the applicant.

(4) The board may cancel any contract between it and any applicant or recipient upon failure by the applicant or recipient to meet requirements of KRS 314.025 to 314.027 or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky Nursing Incentive Scholarship Fund.

Section 5. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed at least an approved four (4) year high school course of study or the equivalent thereof; has completed the basic curriculum for preparing registered nurses in an approved school of nursing and holds a diploma therefrom; [~~and~~] has fulfilled the requirements of KRS 214.615(1)***; and is able to understandably speak and write the English language and to read the English language with comprehension.***

(2) An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination shall be received by the board at such time as prescribed by regulation by the board. [~~Upon successfully passing the examination, the board shall issue to the applicant a license to practice nursing as a registered nurse.~~]

(3) The board shall meet for the purpose of conducting examinations of applicants for licensure as registered nurses at least once a year, at a time and place determined by the board. [~~Notices of the examinations shall be published in two (2) newspapers with statewide circulation.~~] Notices shall be sent by mail to every applicant after applications are received, and to every approved school of nursing in this state at least sixty (60) days prior to the examination.

(4) ***Upon successfully completing all requirements for licensure, the board shall issue to the applicant a license to practice nursing as a registered nurse.***

(5) The board may issue a license to practice nursing as a registered nurse to ***any*** [~~an~~] applicant who has passed the ***examination prescribed by the board or its equivalent*** [~~state board test pool exam or an equivalent examination approved by the board~~] and been licensed as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant is qualified to practice professional nursing in this state.

(6)[~~(5)~~] The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(7)[~~(6)~~] Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(8)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(9)[~~(8)~~] Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(10)[~~(9)~~] A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 6. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant is in good physical and mental health; has completed an organized post-basic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); [~~and~~] is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced nursing practice***; and is able to understandably speak and write the English language and to read the English language with comprehension***.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner or such other designation as determined by the board.

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume such title or use the abbreviation or any other words, letters, signs or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board.

Section 7. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant***:***

(a) Is in good physical and mental health***;***[~~,~~]

(b) Has completed at least an approved four (4) year high school course of study or its equivalent***;***[~~,~~]

(c) Has fulfilled the requirements of KRS 214.615(1)***;*** [~~and~~]

(d) Has completed the required educational program in practical nursing at an approved school of nursing and holds a diploma or certificate therefrom***; and***

(e) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board shall meet for the purpose of conducting examinations of applicants for licensure as licensed practical nurses at least once a year, at a time and place determined by the board. [~~Notices of the examinations shall be published in two (2) newspapers with statewide circulation.~~] Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least sixty (60) days prior to the examination.

(3) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(4) An applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral or practical examination. Application for licensure by examination shall be received by the board at the time as prescribed by regulation by the board. [~~Upon successfully passing the examination the board shall issue to the applicant a license to practice as a licensed practical nurse.~~]

(5) ***Upon successfully completing all requirements for licensure, the board shall issue to the applicant a license to practice as a licensed practical nurse.***

(6) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the ***examination prescribed by the board or its equivalent,*** [~~state board test pool exam or an equivalent examination approved by the board~~] and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(7)[~~(6)~~] Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(8)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed at least biennially and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(9)[~~(8)~~] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(10)[~~(9)~~] A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 8. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document the completion of continuing education requirements not to exceed thirty (30) contact hours in a given licensure period as prescribed in regulations promulgated by the board. A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.

(2) Contact hours required to satisfy the continuing education requirement shall be completed and reported in accordance with board requirements set forth by regulation.

(3) ***The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards.***

Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A [~~Providers of continuing education shall be approved by the board. Only continuing education activities approved by the board shall satisfy continuing education requirements stated in this section~~].

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall [~~maintain continuing education records and it shall~~] be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

(6) The continuing education shall include the completion of the course described in KRS 214.610(1).

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing education requirements, the board may charge reasonable fees as established by regulation ***in accordance with the provisions of KRS Chapter 13A.***

Section 9. KRS 314.089 is amended to read as follows:

(1) [~~A hearing panel of~~] The ***board's president or the president's designee*** [~~board~~] may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that ***this*** [~~such~~] action may be necessary, the executive director ***or the executive director's designee*** shall ***issue an order suspending the nurse's license. The order shall state the grounds upon which the board's president or designee is relying. The order shall be served on the named nurse by certified mail or by personal delivery but shall be effective when issued*** [~~cause to be issued to the licensee a written notice setting forth the basis for the action and the date, time and location for a hearing before a panel of the board. The hearing date shall be at least ten (10) days from the date the notice is mailed by first class to the last known address of the licensee~~].

(2) ***Upon request of the named nurse, the board shall schedule a hearing in regard to the order within fifteen (15) days of the request. The hearing may be held before a hearing panel or before a hearing officer appointed by the board.*** The issue to be decided at the hearing is whether reasonable cause exists for the immediate temporary suspension of a license in order to protect the public pending the outcome of the underlying disciplinary action or investigation. ***Within five (5) days after conclusion of the hearing, the panel or hearing officer shall issue an order affirming or retracting the original order*** [~~The subpoena powers and procedures applicable to regular disciplinary hearings shall apply except for the provisions by regulation for prehearing disclosure of evidence.~~

~~(3) The determination of the hearing panel shall be reported to the board for ultimate decision in the same manner as in regular disciplinary proceedings.~~

~~(4) A determination by the hearing panel that reasonable cause exists for the immediate temporary suspension of a license shall operate to suspend that license as of the hearing date. Continued practice after that date shall be dealt with as the unlicensed practice of nursing~~].

(3)[~~(5)~~] No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(4)[~~(6)~~] The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(5)[~~(7)~~] The [~~hearing panel~~] order of immediate temporary suspension shall remain in effect until ***either retracted*** [~~overturned by the board~~] or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

Section 10. KRS 314.091 is amended to read as follows:

(1) The board shall have power to deny, limit, revoke, probate or suspend any license to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;

(c) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(d) Is unfit or incompetent to practice nursing by reason of negligence or other causes including but not limited to being unable to practice nursing with reasonable skill or safety;

(e) Abuses use of controlled substances or has misused or misappropriated any drugs placed in the custody of the nurse for medication, or use of others;

(f) Has falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on essential records;

(g) Has a license to practice as a nurse denied, limited, suspended, probated or revoked in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated or revoked in this Commonwealth; or

(h) Has willfully or repeatedly violated any of the provisions of this chapter.

(2) In all hearings for denial, limitation, probation, suspension or revocation of the license of a registered or practical nurse, the licensee shall be furnished with a copy of the charges and shall be given at least thirty (30) days to prepare defense, except in the case of temporary suspension as set out in KRS 314.089. The person charged shall be heard by the board or its designated hearing officer in person or by counsel, or both, as may be desired. The presiding officer of the hearing may administer the oath in any manner arising in the course of duties. In the hearing the board may take oral or written proof for or against the aggrieved person. A suspended or revoked license may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents. Said subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) The board, or any member thereof, may administer oaths, take testimony, hear proof and receive exhibits in evidence at the hearing.

(5) The board shall not be bound by technical rules of evidence.

(6) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(7) At all hearings on request of the board the attorney general of this state or one (1) of his assistants designated by him shall appear and represent the board.

(8) The decision of the board shall be by majority vote thereof.

(9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court ***of the county in which the board's offices are located*** within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the executive director of the board and thereupon the executive director shall certify and file in the court a transcript of the record upon which the order complained of was entered. No new or additional evidence shall be introduced in the court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive director of the nursing board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determine whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity.

Section 11. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to their program of study by individuals enrolled in nursing education programs and refresher courses approved by the board ***or in graduate programs in nursing***; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) ***Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.***

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for and paid the fee for licensure by examination or endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement or to conduct and determine the results of examinations and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5)[~~(4)~~] The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirments for licensure or has disciplinary action pending against ***the person's*** [~~his~~] license in this or another jurisdiction.

(6)[~~(5)~~] A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.

(7)[~~(6)~~] Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board or who has passed the commission on graduates of foreign nursing schools examination may be issued a temporary work permit.

Section 12. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a board of nursing consisting of twelve (12) members. Seven (7) members shall be registered nurses licensed to practice in the Commonwealth. Three (3) shall be practical nurses licensed to practice in the Commonwealth. One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth. One (1) member shall be a citizen at large, who is not associated with or financially interested in the practice or business regulated. Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. Each year two (2) registered nurse terms and one (1) licensed practical nurse term shall expire on June 30, except that every fourth year one (1) registered nurse term and one (1) consumer term shall expire on June 30. By March 1 the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1. By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky ***Organization of Nurse Executives*** [~~Society for Hospital Nursing Service Administrators~~], an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1. By March 1, [~~1989,~~] the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1[~~, 1989. This appointment may be made at any time after July 15, 1988 but not later than the date specified herein~~].

(2) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(3) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(4) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Four (4) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; and one (1) shall be in nursing administration.

(5) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, and have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment.

(6) The Governor shall appoint an advisory council to the board consisting of seven (7) members to be selected one (1) each from lists submitted by Kentucky Medical Association, Kentucky Hospital Association, Kentucky Association of Health Care Facilities, Kentucky Nurses Association, Kentucky State Association of Licensed Practical Nurses, Kentucky Dental Association and Kentucky Pharmacists Association. The council shall function in an advisory capacity only as a constructive force in establishing and maintaining standards of nurse competency and licensure regulations in the interest of public protection, and, in this connection shall be provided with copies of any proposed regulations of the board [~~at least thirty (30) days prior to their filing with the legislative research commission~~]. The terms shall be for four (4) years. Two (2) shall be appointed each year except every fourth year when only one (1) shall be appointed.

SECTION 13. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental or physical examination by a physician or psychologist it designated. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 until the person submits to the required examination.

(2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.

(3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall bear the cost of any mental or physical examination ordered by the board.

Section 14. KRS 314.991 is amended to read as follows:

(1) Any person who violates any provision of this chapter for which no other penalty has been provided shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Each day he violates any provisions of this chapter shall be considered a separate offense.

(2) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be fined not more than five hundred dollars ($500).

(3) For any violation of this chapter where the board has the power to deny, revoke, probate, limit or suspend a license, the board may, in lieu thereof or in addition to other remedies impose a civil penalty against the violator of not more than ***ten thousand dollars ($10,000)*** [~~one thousand dollars ($1,000)~~].

(4) Any person who knowingly violates KRS 314.031(1) shall, for the first occurrence, be imprisoned for not more than twelve (12) months or fined not more than five hundred dollars ($500), or both.

(5) Any person who knowingly violates KRS 314.031(1) on a second or subsequent occasion shall be imprisoned for not more than five (5) years or fined not more than ten thousand dollars ($10,000), or both.

(6) Any unlicensed person who knowingly poses as someone else who does hold a license under this chapter shall be guilty of a violation of KRS 314.031(1), and the penalties set out in subsections (4) and (5) of this section all apply to such conduct.

(7) In addition to the penalties provided in subsections (4) and (5) of this section, the board may impose civil penalties for violations of KRS 314.031(1) in an amount equal to one hundred dollars ($100) for each day during which a violation occurred or continued.

(8) All civil penalties received and collected by the board shall be deposited with the state treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.

(9) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the circuit court.

(10) Whenever the board has reason to believe that any person is in violation or is about to violate any provision of this chapter, it may seek a restraining order, temporary or permanent injunction, or other civil remedy against such person in the circuit court.

(11) In order to obtain a temporary or permanent restraining order, or other equitable remedy, it shall not be necessary to allege or prove that an adequate remedy at law does not exist, nor shall it be necessary to allege or prove that irreparable injury, loss, or damage will result if the injunctive relief is denied. Further, it shall not be necessary to allege or prove that criminal action has been first instituted.

HJR 94, A JOINT RESOLUTION supporting the full implementation of the Kentucky Early Intervention System and directing the Cabinet for Human Resources to continue to expand upon its efforts to establish comprehensive services for all children with special needs from birth through age two.

WHEREAS, early intervention services for infants and toddlers with special needs aged birth through two years are essential to the continued development of the Commonwealth's most precious resource; and

WHEREAS, the provision of early intervention services is documented to be effective in substantially increasing the attainable potential of infants and toddlers with special needs; and

WHEREAS, Public Law 99-457, part H, makes federal funds available to states to develop early intervention services for infants and toddlers with special needs, without requiring any specific state appropriation; and

WHEREAS, the Cabinet for Human Resources has estimated that as many as four thousand (4,000) infants and toddlers in Kentucky could substantially benefit from these services; and

WHEREAS, the Cabinet for Human Resources is currently providing early intervention services to an estimated one thousand six hundred (1,600) infants and toddlers with special needs; and

WHEREAS, the early intervention services are not currently available uniformly across the Commonwealth, limiting access for a substantial number of our youngest Kentuckians in need;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Cabinet for Human Resources be directed to seek full funding available under Public Law 99-457, part H, for early intervention services for those infants and toddlers aged birth through two years with special needs.

Section 2. That the Cabinet for Human Resources request additional funding from public and private sources, including but not limited to the General Assembly, necessary to achieve the goals and objectives of the Kentucky Early Intervention System on a statewide basis.

Section 3. That a copy of this resolution be transmitted to the Governor, and the secretary of the Cabinet for Human Resources.

The Committee on Health and Welfare reported **HB 307** and **HB 371** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 307, AN ACT relating to radiation control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The Cabinet for Human Resources shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in radon analysis, mitigation, or testing activities without obtaining certification from the Cabinet for Human Resources. The Cabinet for Human Resources shall promulgate administrative regulations pursuant to KRS Chapter 13A, which shall include, but not be limited to, specifications of the form of applications for certification, the qualifications for certification, grounds for revocation of certification, and other matters as may be necessary to protect the public from unnecessary radiation exposure from radon.

(2) The secretary of human resources shall fix a reasonable schedule of fees, by administrative regulation promulgated pursuant to KRS Chapter 13A, to be paid by applicants for certification and renewal of radon mitigators, testors, and laboratories. The secretary shall also prescribe, by administrative regulation promulgated pursuant to KRS Chapter 13A, a reasonable schedule of fees to be paid by certified radon mitigators, testors, and laboratories for inspections and environmental surveillance activities conducted by the Cabinet for Human Resources.

(3) All fees and fines collected by the Cabinet for Human Resources under the provisions of Sections 1 to 4 of this Act or the administrative regulations promulgated pursuant to Sections 1 to 4 of this Act shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for Human Resources in carrying out the provisions of Sections 1 to 4 of this Act.

(4) State and local governmental agencies shall be exempt from the payment of fees but shall otherwise comply with Sections 1 to 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources may institute proceedings in Circuit Court for an order enjoining a person from engaging or attempting to engage in activities which violate the provisions of Sections 1 to 4 of this Act or administrative regulations promulgated pursuant to Sections 1 to 4 of this Act. Upon a showing that a person has engaged in or is about to engage in this activity, a restraining order, permanent injunction, temporary injunction, or other appropriate order shall be granted.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Any person who violates Sections 1 to 4 of this Act or any administrative regulation promulgated pursuant to Sections 1 to 4 of this Act or who fails to comply with an order of the Cabinet for Human Resources issued pursuant to Sections 1 to 4 of this Act shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation or noncompliance continues.

Section 5. KRS 211.842 is amended to read as follows:

(1) The Cabinet for Human Resources is the radiation control agency of the state of Kentucky.

(2) The Cabinet for Human Resources shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation.

(3) The Cabinet for Human Resources shall develop and conduct programs for evaluation and control of hazards associated with the use of [~~any and all~~] sources of ionizing***, non-ionizing,*** and electronic product radiation.

(4) The cabinet or its duly authorized representative may enter at ***a*** [~~any~~] reasonable time upon the property of ***a*** [~~any~~] licensee, registrant, or other person where sources of ionizing***, non-ionizing,*** or electronic product radiation are reasonably believed to be located for the purpose of determining whether or not such licensee, registrant, or other person is in compliance with or in violation of the provisions of KRS 211.842 to 211.852 and ***administrative*** [~~rules and~~] regulations promulgated hereunder, and the owner, occupant, or

person in charge of ***the*** [~~such~~] property shall permit [~~such~~] entry and inspection; provided, that entry into areas under the jurisdiction of an agency of the federal government or its duly designated representative shall be only upon permission of ***the*** [~~such~~] agency or ***its*** [~~said~~] representative.

HB 371, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.305 is amended to read as follows:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. The secretary shall [~~not~~] impose a fee***, not to exceed one hundred dollars ($100),*** for this registration.

(2) The secretary shall ***adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes*** [~~not impose or adopt any standards or requirements pertaining to boarding homes, as defined in KRS 216B.300~~]***. The administrative regulations shall include minimum requirements in the following areas:***

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Handling and storage of resident's prescription drugs; and

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home.

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(b) All applicable local health, fire, building and safety codes and zoning ordinances.

(4) Any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section, after being provided with written notice of non-compliance and a reasonable period of time for correction, shall not be registered. A boarding home operator may appeal the cabinet's denial of registration in accordance with administrative regulations promulgated by the cabinet for determining the rights of the parties. If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(6) Nothing in this Act shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for Human Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Every resident in a boarding home, as defined in KRS 216B.300, shall have at least the following rights:

(1) Before entering a boarding home, the resident or the resident's guardian, if any, shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all services provided by the boarding home and all applicable charges.

(2) Before entering a boarding home, the resident or the resident's guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all the resident's rights as defined in this section, and a list of any rules established by the boarding home.

(3) All residents shall be allowed to exercise their rights as a resident and a citizen, and may voice grievances and recommend changes in policies and services to the boarding home operator and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(4) All residents shall be free from mental and physical abuse.

(5) Each resident may manage the use of his personal funds. The boarding home operator shall not require a resident to designate the operator as payee for any benefits received by the resident. However, if the operator accepts the responsibility for managing the resident's personal funds as evidenced by the operator's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include the operator giving quarterly itemized statements to the resident or the resident's guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The operator shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time the resident leaves the boarding home.

(6) Residents shall not be required to perform services for the boarding home.

(7) Residents may associate and communicate privately with persons of their choice, within reasonable hours established by the boarding home, and send and receive personal mail unopened.

(8) No resident shall be detained against the resident's will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish.

(9) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(10) Residents shall be assured of at least visual privacy in multi-bed rooms and in bathrooms.

(11) If the resident has been adjudicated wholly mentally disabled in both financial and personal affairs in accordance with KRS 387.590, the resident's guardian shall not place the ward in a boarding home.

(12) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality.

(13) Residents shall have access to a telephone at a convenient location within the boarding home for making and receiving telephone calls subject to reasonable rules established by the boarding home.

(14) Residents have the right to have private meetings with inspectors representing the Cabinet for Human Resources.

(15) Each resident and his guardian has the right to have access to all inspection reports on the boarding home.

Section 3. KRS 216B.310 is amended to read as follows:

The secretary shall maintain a listing of all registered boarding homes which shall be updated at least quarterly. *At the time the list is updated, the cabinet shall submit the list of registered boarding homes to the local health department and fire department in counties containing registered boarding homes.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for Human Resources shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.

(2) The Cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Social Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Licensing and Regulation for investigation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the Division of Aging Services and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 6. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any [~~existing~~] boarding home which does not register ***as required by KRS 216B.305*** [~~within six (6) months of July 13, 1990~~], shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered. [~~New boarding homes which begin operations after July 13, 1990, shall register within thirty (30) days of beginning operations; those failing to register shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered, beginning with the thirty-first day of their operations.~~]

Calendar

HB 64, HB 212, HB 339, HB 384, HB 389, HB 458, SB 12, SB 13, HB 84, HB 219, HB 329, HB 390, HB 408, HB 410, HB 480, HB 505, HB 343, HB 303, HB 327, HB 488, HCR 22, SB 15, SB 61, SB 95, HB 187, HB 457, HB 161, HB 200 and **HB 238** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 238**, by Representative Gregory:

Amend printed copy of **HB 238** on page 2, line 22, after "***KRS 138.210(4)***" by adding the following:

"***, except it does not mean compressed natural gas***".

Floor Amendment No. 1 to **HB 410**, by Representative Morris:

Amend printed copy of **HB 410** (as corrected) on page 2, lines 5 and 6, by deleting "***unless he has been sentenced to a regional correctional institution pursuant to KRS 532.070(2), or***".

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 64**, **HB 84**, **HB 161**, **HB 187**, **HB 212**, **HB 327**, **HB 329**, **HB 339**, **HB 384**, **HB 389**, **HB 390**, **HB 457**, **HB 458**, **HB 480**, **HB 488**, **HB 505**, **HCR 22**, **SB 12**, **SB 13**, **SB 61** and **SB 95** have been posted for passage in the Orders of the Day for February 24, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 200**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 494**, by Representative Jones:

Amend printed copy of **HB 494** on page 3, line 22, after the word "***board,***" by adding the word "***or***" and after the word "***agents,***" by deleting the words "***or its employees***".

Orders of the Day

Representative Stumbo moved that the rules be suspended for the introduction of guests and to make announcements. Agreed.

SCR 5 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved that **SCR 5** be adopted.

On the roll call the vote was: Yeas 98, Nays 0. (See February 20, 1992 roll call on **SCR 5** - Appendix.)

SCR 5 was adopted.

Representative Maggard moved that the vote by which **SCR 5** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 232** be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 20, 1992 roll call on **HB 232** - Appendix.)

HB 232 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 232** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 306, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of the Committee Substitute to **HB 306**. Agreed.

Representative Ward moved that **HB 306**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 20, 1992 roll call on **HB 306** - Appendix.)

HB 306, by way of Committee Substitute, was passed and the title agreed to.

Representative Ward moved that the vote by which **HB 306**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 14, with Committee Substitute, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 14**. Agreed.

Representative Clarke moved the adoption of Floor Amendment No. 2 to **HB 14**. Agreed.

Representative Wayne moved that **HB 14**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 20, 1992 roll call on **HB 14** - Appendix.)

HB 14, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 14**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 322 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 322** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 20, 1992 roll call on **HB 322** - Appendix.)

HB 322 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 322** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 330, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **HB 330**. Agreed.

Representative Lear moved that **HB 330**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See February 20, 1992 roll call on **HB 330** - Appendix.)

HB 330, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 330**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HCR 26** be adopted.

On the roll call the vote was: Yeas 96, Nays 0. (See February 20, 1992 roll call on **HCR 26** - Appendix.)

HCR 26 was adopted.

Representative Gedling moved that the vote by which **HCR 26** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 498 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 498** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 20, 1992 roll call on **HB 498** - Appendix.)

HB 498 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 498** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 55 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 55** be adopted.

On the roll call the vote was: Yeas 92, Nays 0. (See February 20, 1992 roll call on **HJR 55** - Appendix.)

HJR 55 was adopted.

Representative Worthington moved that the vote by which **HJR 55** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 422** be reassigned to the Committee on State Government. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 606, by Representative Donnermeyer: AN ACT relating to the Communications Advisory Council.

HB 607, by Representative Clarke: AN ACT relating to property tax appeals and declaring an emergency.

HB 608, by Representative Clarke: AN ACT relating to revocation of license to mine coal by delinquent taxpayers.

HB 609, by Representative Clarke: AN ACT relating to power of attorney.

HB 610, by Representative Richards: AN ACT relating to the reorganization of the Kentucky Educational Savings Plan Trust.

HB 611, by Representative Jones: AN ACT relating to automobile insurance.

HB 612, by Representative Jones: AN ACT relating to workers' compensation.

HB 613, by Representatives B. Smith and Altman: AN ACT relating to insurance.

HB 614, by Representatives Deskins, Maggard and Little: AN ACT relating to surface mining.

HB 615, by Representative Richardson: AN ACT relating to conservation districts.

HB 616, by Representatives Richardson, LeMaster, Hourigan, Turner, Geveden, Noland, Richards, Jones, Adkins, Gregory and Arnold: AN ACT relating to natural gas.

HB 617, by Representative Richardson: AN ACT relating to the possession of police radios.

HB 618, by Representatives Adkins, R. Smith and Cyrus: AN ACT relating to motor vehicle usage tax.

HB 619, by Representatives Keith and Bowling: AN ACT relating to retirement.

HB 620, by Representatives Pritchett, Hancock and Little: AN ACT relating to airport facilities and funding therefor, and declaring an emergency.

HR 117, by Representatives Palumbo and Stokes: A RESOLUTION honoring the Junior Leagues of Kentucky.

HCR 118, by Representatives Gedling and Brown: A CONCURRENT RESOLUTION recognizing Dick Frymire as state folklorist and state treeologist.

HR 119, by Representative Ark: A RESOLUTION honoring Kentucky's 1992 Young Woman of the Year, Elizabethtown High School Senior, Marnie Levee.

Motions, Petitions and Communications (Continued)

Representative Northup moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Northup moved that she be recorded as voting "yea" on **HB 14**. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Appropriations and Revenue: **HB 345, HB 353, HB 439, HB 553, HB 555**

Banking and Insurance: **HB 583**

Tourism Development and Energy: **HJR 90**

Agriculture and Small Business: **HB 541, HB 547, HB 559**

Cities: **HB 381**

Business Organizations and Professions: **HB 175, HB 416**

Counties and Special Districts: **HB 483, HB 448, HB 495, HB 504, HB 506**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills: **HB 14**, Representative Ackerson; **HB 322**, Representatives Donnermeyer, Keith; **HB 113**, Representative Keith.

Representative Farrow moved the adoption of the following Legislative Citation No. 29. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Patrolman John Hiten of the Cynthiana Police Department for your courage, bravery and fourteen years of dedicated service to the citizens of Cynthiana. By disarming a gunman and defusing a violative situation on February 2, 1992, you prevented a stressful situation from erupting into a tragedy. Your quality of mind and professional skills enabled you to act in precisely the correct manner.

This prestigious body joins Representative Mark Farrow in commending you for your outstanding service to the community of Cynthiana. We extend to you our best wishes.

Representative Farrow moved the adoption of the following Legislative Citation No. 30. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Patrolman David Powers of the Cynthiana Police Department for your courage, bravery and three years of dedicated service to the citizens of Cynthiana. By disarming a gunman and defusing a violative situation on February 2, 1992, you prevented a stressful situation from erupting into a tragedy. Your quality of mind and professional skills enabled you to act in precisely the correct manner.

This prestigious body joins Representative Mark Farrow in commending you for your outstanding service to the community of Cynthiana. We extend to you our best wishes.

Representative Palumbo moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION honoring the Junior Leagues of Kentucky.

WHEREAS, the House of Representatives welcomes the members of the Junior Leagues of Kentucky; and

WHEREAS, the Junior Leagues of Kentucky reach out to women of all ages, religions, and national origin who demonstrate an interest in and a commitment to volunteerism; and

WHEREAS, the Junior Leagues of Kentucky represent over 2,090 committed and trained volunteers; and

WHEREAS, Junior Leagues identify needs in their communities and develop, fund, and staff projects to meet those needs; and

WHEREAS, once completed, these identified projects are turned over to appropriate community organizations, thereby freeing leagues to develop new projects; and

WHEREAS, during the past three years, the Junior Leagues of Kentucky have sponsored a total of thirty-seven projects in their communities and have provided over $439,779 and trained volunteers to fund and administer these projects;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes this outstanding organization for its many fine accomplishments.

Section 2. That the clerk of the House is directed to transmit one copy to each of the following three Junior Leagues: The Junior League of Lexington, P.O. Box 687, Lexington, Kentucky 40586; The Junior League of Louisville, 627 W. Main Street, Louisville, Kentucky 40202; and The Junior League of Owensboro, 1009 Allen Street, Owensboro, Kentucky 42301.

HR 117 was adopted by voice vote.

Representative Noe moved the adoption of the following Legislative Citation No. 28. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Chief Johnny Perkins and members of the Upper Clover Fork Volunteer Fire Department. Each and every member has invested long hours and tireless efforts to protect and save the people and property of Upper Clover Fork. This dedication, self-sacrifice, and humanitarian spirit has made your community a better place to live.

This prestigious body joins Representative Roger Noe in honoring the Upper Clover Fork Volunteer Fire Department for your exemplary service.

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following Legislative Citation No. 27. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Jody Richards on the occasion of your 54th birthday, February 20, 1992. Your many years of experience and service stand as a shining example and source of pride and motivation for your fellow legislators.

This prestigious body joins Representative Gregory D. Stumbo in congratulating Jody Richards on this significant and noteworthy occasion, your 54th birthday. We extend to you our best wishes for many years of good health and happiness.

Announcements

The following meetings were announced:

Economic Development, February 21, 1992, upon adjournment, Room 129.

Western Kentucky Caucus, February 20, 1992, upon adjournment, Room 327.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 21, 1992.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Johnson, Jones, Keith, Kerr, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Hatcher, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 21, 1992

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Invocation by the Male High School Choir, directed by Jim Pitman, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Heleringer, Napier and Overstreet.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 20, 1992 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 621, by Representatives Mason and Bentley: AN ACT relating to coal mining regulations.

HB 622, by Representatives Mason and Bentley: AN ACT relating to surface mining.

HB 623, by Representatives Mason and Bentley: AN ACT relating to surface coal mining.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HJR 116, HB 605, HB 607, HB 608, HB 618**

Banking and Insurance: **HB 611, HB 613, SB 113**

Business Organizations and Professions: **HB 604**

Counties and Special Districts: **HB 615**

Judiciary: **HB 601, HB 602, HB 603, HB 609**

Labor and Industry: **HB 612**

Natural Resources and Environmental Protection: **HB 614**

State Government: **HB 606, HB 610, HB 619, HCR 118**

Tourism Development and Industry: **HB 616**

Transportation: **HB 617, HB 620**

Representative Wayne moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Wayne moved the adoption of the following **HR 115**:

HR 115, A RESOLUTION honoring the Louisville Male High School Concert Choir.

WHEREAS, the Louisville Male High School Concert Choir is composed of talented young people who perform with distinction for the benefit of those who enjoy and appreciate music; and

WHEREAS, the Louisville Male High School Choir has flourished under the outstanding leadership of choral director Larry C. Pittman; and

WHEREAS, the Louisville Male High School Choir competed in the 1991 National Festivals of Music Championship held on May 2, 1991 in Ocean City, Maryland; and

WHEREAS, the Louisville Male High School Choir received superior ratings during this national event including first place in show choir; first place in concert choir; and grand champion overall winners; and

WHEREAS, the Louisville Male High School Concert Choir has been a contributing factor to the cultural enlightenment and enrichment of the citizens of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body congratulates the Louisville Male High School Choir for the honors bestowed upon them during the 1991 National Festivals of Music Championship.

Section 2. That the Louisville Male High School Choir and director Larry C. Pittman are hereby praised and highly commended for their constant effort resulting in the performance of excellent music for the benefit of the citizens of the Commonwealth.

Section 3. That the Clerk of the House is directed to transmit 62 copies of this Resolution to Mr. R. Ted Boehm, Principal, Louisville Male High School, 4409 Preston Highway, Louisville, Kentucky 40213

HR 115 was adopted by voice vote.

Representative Wayne moved that a call of the roll be taken to show co-sponsors of **HR 115**.

On the roll call the vote was yeas 92—Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 424, HB 554**

Business Organizations and Professions: **HB 578**

The Clerk announced that the following Bill has been withdrawn for Committee consideration:

Health and Welfare: **HB 476**

Calendar

HB 47, HB 126, HB 199, HB 386, HB 465, HB 472, HB 113, HB 455, HB 487, SB 96, SB 111, SJR 7, HB 437, HJR 23, HJR 73, SB 50, HB 153, HB 283, HB 323, and **HJR 94** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 307 and **HB 371** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 47**, by Representative K. Harper:

Amend printed copy of **HB 47/HCS** on page 1, line 13, after "the" as it appears the first time by inserting "***last***" and by placing brackets around and striking through "first" and by placing brackets around and striking through "after the"; and

On line 14, by deleting "***third***" and by deleting the bracket following "[~~fourth~~" and by striking through "Monday" and placing "]" after "Monday" and after "in" by inserting "***August***" and placing brackets around and striking through "May"; and

On line 18, after "2." by deleting the remainder of the line and lines 19 through 21 in their entirety and by inserting in lieu thereof:

"KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 83A and 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 3. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board withthe county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] before the day fixed by law for the holding of regular elections.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to ***seventy-seven (77)*** [~~one hundred six (106)~~] days before the general election shall be filed not later than ***the last Tuesday in June*** [~~ninety-one (91) days~~] prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of the electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 4. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity, or withdrawal of a candidate, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs ***later than the last Tuesday in June*** [~~less than ninety-one (91) days~~] but more than ***forty-two (42)*** [~~thirty (30)~~] days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than ***forty-two (42)*** [~~thirty (30)~~] days prior to the regular election.

b. If the vacancy in candidacy occurs less than ***forty-two (42)*** [~~thirty (30)~~] days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 5. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not ***later than the last Tuesday in June*** [~~less than one hundred nineteen (119) days~~] before the day fixed by law for holding the primary election. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***forty-nine (49)*** [~~one hundred sixteen (116)~~] days before the primary election.

(5) Not less than ***forty-two (42)*** [~~ninety-eight (98)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 6. KRS 83A.100 is amended to read as follows:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but the populations of wards shall be reviewed for equalization at least as often as each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within ***one hundred eighty (180)*** [~~two hundred forty (240)~~] days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:

(a) Members shall be elected in the regular November election at large, but each candidate shall reside in the ward he seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The names shall be presented in the election to show for which ward each candidate is seeking election and voters shall be instructed to "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward.

(b) Persons seeking the nomination of a political party for the office of legislative body member where a primary election is required for the political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent.

Section 7. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.

(2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.

(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:

(a) Vacancies in candidacy shall be governed by KRS 118.105;

(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and

(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.

(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:

(a) If the vacancy occurs not less than ***seventy-seven (77)*** [~~one hundred thirty-four (134)~~] days before ***an August*** [~~a May~~] primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and

(b) If the vacancy occurs on or after the ***seventy-seventh*** [~~one hundred thirty-fourth~~] day before ***an August*** [~~a May~~] primary, the election to fill the unexpired term shall be held in the manner prescribed in Section 152 of the Kentucky Constitution; and

(c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b)7.

Section 8. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot and all applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no absentee ballots shall be mailed to an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application. Application for an absentee ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime may, at any time not less than the close of normal business hours seven (7) days before the election, make application in person or by mail to the county clerk for an absentee ballot. All requests for an application for an absentee ballot and all applications for an absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to the voter who appears in person to request the application, or shall mail the application to a voter who requests the application by mail. The application shall be restricted to use of the voter or the spouse, parents or children of the voter;

(b) Residents of Kentucky who are members of the armed forces, or dependents of members of the armed forces and overseas citizens, may apply for an absentee ballot by means of the federal post-card application. The application may be used to register, reregister and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(c) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed ***thirty-five (35)*** [~~fifty (50)~~] days prior to each primary or general election.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received an absentee ballot but who knows at least seven (7) days before the date of the election that he shall be in the county on election day and who has not voted pursuant to the

provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 9. KRS 117.145 is amended to read as follows:

(1) At least fifteen (15) days before any special election, and at least ***thirty-five (35)*** [~~fifty (50)~~] days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of paper absentee ballots. The absentee ballot shall be used for voting by absent voters; by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all absentee ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election, the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the Finance and Administration Cabinet.

Section 10. KRS 118.115 is amended to read as follows:

Except as provided in subsection (2)(b) of KRS 83A.045 governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than ***seventy-seven (77)*** [~~one hundred thirty-four (134)~~] days before the primary. If the vacancy occurred less than ***seventy-seven (77)*** [~~one hundred thirty-four (134)~~] days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

Section 11. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not less than ***forty-two (42)*** [~~ninety-eight (98)~~] days before a primary;

(b) Not less than ***forty-two (42)*** [~~seventy-seven (77)~~] days before a general election, the certification to include only candidates to federal office; and

(c) Not less than ***forty-two (42)*** [~~seventy-seven (77)~~] days before a general election, the certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not less than ***thirty-eight (38)*** [~~eighty-eight (88)~~] days before the primary or ***thirty-eight (38)*** [~~sixty-five (65)~~] days before the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote. All candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 12. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***forty-nine (49)*** [~~one hundred sixteen (116)~~] days before the primary or ***forty-nine (49)*** [~~eighty-eight (88)~~] days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, ***forty-nine (49)*** [~~one hundred sixteen (116)~~] days before the primary or ***forty-nine (49)*** [~~eighty-eight (88)~~] days before the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 13. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a ***caucus,*** convention, or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a ***caucus or*** convention [~~or primary election~~] held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a ***caucus,*** convention, or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the ***caucus or*** convention, or by the chairman and secretary of the county, city, or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a ***caucus or*** convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The form of the statement shall be prescribed by the State Board of Elections. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state ***caucus or*** convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state ***caucus or*** convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ballot labels are printed, the chairman of the state, county, [~~or~~] city, ***or*** district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by ***caucus or*** convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the Secretary of State and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 14. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have

violated, in the primary election, any provision of KRS Chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines for any office to be voted for in the succeeding regular election.

[~~(3) This section does not apply to presidential preference primary candidates.~~]

Section 15. KRS 118.375 is amended to read as follows:

If a vacancy occurs in any elective office less than ***seventy-seven (77)*** [~~one hundred thirty-four (134)~~] days before the primary or at any time after the primary, but not less than ***seventy (70)*** [~~one hundred six (106)~~] days before the general election, independent candidates may file their petitions at the time and place provided for in KRS 118.365, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

Section 16. KRS 118.415 is amended to read as follows:

(1) When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made at least ***seventy (70)*** [~~one hundred~~ (100)] ~~days preceding the election at which the amendment is to be voted on.~~

~~(2) The Attorney General shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the State Board of Elections to be placed on the voting machine. The State Board of Elections, not less than~~ ***fifty-six (56)*** [seventy (70)] ~~days before the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.~~

~~(3) The votes cast for and against the amendment shall be counted, canvassed,~~ and certified to the State Board of Elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 17. KRS 118.551 is amended to read as follows:

As used in KRS ***118.555 and 118.631*** [118.561] ~~to 118.651, "political party" means each political party that cast ten percent (10%) or more of the vote for Governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.~~

~~Section 18. KRS 118.555 is amended to read as follows:~~

[(1)] ~~The state executive committee of each political party shall, pursuant to its party's rules,~~ [determine whether to] ~~distribute its party's authorized delegate votes for presidential candidates at its party's national convention based on the results of a party caucus.~~[, a presidential preference primary, or a combination of the two (2) methods. Each state executive committee shall notify the State Board of Elections of its decision not less than one hundred forty-seven (147) days prior to the day for conducting a presidential preference primary as set by KRS 118.561.

(2) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of a party caucus, a presidential preference primary shall not be conducted for that political party, and the provisions of KRS 118.561 to 118.651 shall not apply. The distribution of delegates ~~among the presidential candidates shall be determined by party rule.~~

~~(3) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of both a party caucus and a presidential preference primary, the formula for distribution of authorized delegate votes based on the results of a party caucus shall be determined by party rule. The distribution of delegates based on the~~

~~results of a presidential preference primary shall be in accordance with the provisions of KRS 118.641(1). Regardless of the method by which the authorized delegate votes are distributed,~~] The casting of votes on the first ballot at each party's national convention shall be in accordance with the provisions of KRS 118.641[~~(2)~~].

Section 19. KRS 118.631 is amended to read as follows:

[~~Upon completion of the official canvass of the results of the~~ primary by the state board of elections, the Secretary of State shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of KRS 118.641;

(2) The total vote received by each;

(3) A declaration that] ~~The results of the~~ ***voting for presidential candidates*** [presidential preference primary]~~,~~ ~~in accordance with the division of votes reflected by the official~~ ***party caucus*** [canvass]~~,~~ ~~shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated~~ [by KRS 118.551 to 118.651] ~~as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky~~.[; and

(4)] ~~After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under KRS~~ ***118.641*** [118.551 to 118.651] ~~shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of such political parties.~~

~~Section 20. KRS 118.641 is amended to read as follows:~~

[(1) The political parties in distributing authorized delegate votes among party candidates shall select one of the following methods of distribution:

(a) The candidates receiving the highest number of votes, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

1. The total vote received by the candidates qualifying under ~~the provisions of KRS 118.551 to 118.651 and subsections herein shall, when combined, be equal to one hundred percent (100%);~~

~~2. Each such candidate shall share in the total percentage in direct proportion to the total vote received by him mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);~~

~~3. Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; or~~

~~(b) The candidate receiving the highest number of votes cast by his political party shall be awarded a pro rata portion of the authorized delegate vote of his political party in compliance with the state party rules for that party.~~

~~(2)~~] Each political party shall, on the first ballot at its national convention, cast this Commonwealth's vote for the candidates as determined by [~~the primary or~~] party caucus and calculated [~~under this section or~~] under party rules[~~, whichever is applicable~~]. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes [~~under this section~~] prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

Section 21. KRS 118.651 is amended to read as follows:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee, no later than January 30 of each year in which ***a*** [~~such~~] presidential ***election*** [~~primary~~] shall be conducted, of the provisions [~~contained herein~~] relating to the automatic vote on the first ballot as required under KRS [~~118.551 to~~] 118.641.

Section 22. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy

occurs not less than ***seventy-seven (77)*** [~~one hundred thirty-four (134)~~] days before the primary. If the vacancy occurs on or after the ***seventy-seventh*** [~~one hundred thirty-fourth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State ***not later than the last Tuesday in June*** [~~at least ninety-one (91) days~~] before the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***forty-nine (49)*** [~~eighty-eight (88)~~] days before the regular election.

(7) Not less than ***forty-two (42)*** [~~seventy-seven (77)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 23. KRS 61.730 is amended to read as follows:

Each person subject to KRS 61.710 to 61.780, while holding office or employment, shall file with the Kentucky Registry of Election Finance, by ***April*** [~~March~~] 15 of each year, the written report required by KRS 61.740. Each person who is a candidate for any of the subject offices shall file with the Registry of Election Finance, by ***July*** [~~March~~] 15 of the year in which he becomes a candidate, the report required by KRS 61.740. Nothing in KRS 61.710 to 61.780 shall be construed to require the filing of more than one (1) complete report for each subject individual each year, except that each individual shall, in writing, notify the Registry of Election Finance of the acquisition or termination of any interests subject to the requirements of KRS 61.710 to 61.780 by January 1 of each year.

Section 24. The following KRS sections are repealed:

118.561 Presidential preference primary election.

118.571 Voter qualification.

118.581 Nomination of candidates by State Board of Elections.

118.591 Nomination of candidate by petition.

118.601 Notification of nominees by Secretary of State.

118.611 Candidates required to make deposit with Secretary of State — Refund — Escheat to Commonwealth.

118.621 Secretary of State to place candidates' names on ballot — Provisions for casting uncommitted vote.

Section 25. This Act shall be effective January 1, 1993."; and

On page 2, by deleting lines 1 through 8 in their entirety.

Floor Amendment No. 2 to **HB 410**, by Representative Arnold:

Amend printed copy of **HB 410** on page 2, line 24, by deleting "***of twenty-two dollars ($22) for***";

and by deleting line 25; and

on line 26 by deleting "***medium-security prisoners.***"

and by substituting after "***diem***" on line 24 the following:

"***as provided in the enacted budget.***".

Orders of the Day

HB 344 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 344** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See February 21, 1992 roll call on **HB 344** - Appendix.)

HB 344 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 344** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 494, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of Floor Amendment No. 1 to **HB 494**. Agreed.

Representative Jones moved that **HB 494**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 21, 1992 roll call on **HB 494** - Appendix.)

HB 494, as amended, was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 494**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 340, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **HB 340**. Agreed.

Representative Lewis moved that **HB 340**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See February 21, 1992 roll call on **HB 340** - Appendix.)

HB 340, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 340**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 178**. Agreed.

Representative Brown moved that **HB 178**, by way of Committee Substitute, be passed.

Representative Allen moved the adoption of Floor Amendment No. 1 to **HB 178**.

On the roll call the vote was yeas 41—Ackerson, Allen, Altman, Arnold, Ballard, Bronger, Bruce, Bryant, Casebier, Castleman, Crupper, Curd, Farley, Ford, Freibert, Gedling, J. Harper, Jensen, Keith, Lile, Little, Lyne, Morris, Mullinix, Nelson, Noland, Nunn, Pritchett, Reinhardt, Riner, Sanders, B. Smith, R. Smith, T. Smith, Strong, Toby, Todd, Walker, Worthington, Yates, Zimmerman. Nays 47—Ark, Barrows, Bentley, Blandford, Bowling, Brown, Burch, Butler, Callahan, L. Clark, P. Clark, Clarke, Coleman, Cyrus, Deskins, Donnermeyer, Farrow, Gray, Gregory, Hancock, K. Harper, Hatcher, Hourigan, Johnson, Jones, Kerr, Lear, LeMaster, Long, Mack, Maggard, McElroy, Moberly, Noe, Palumbo, Rapier, Ravenscraft, Richards, Ridley, Riggs, Scorsone, Sheehan, Stokes, Stumbo, Turner, Ward, Wayne.

The motion that Floor Amendment No. 1 to **HB 178** be adopted was rejected.

On the roll call on the passage of **HB 178** the vote was: Yeas 65, Nays 26. (See February 21, 1992 roll call on **HB 178** - Appendix.)

HB 178, by way of Committee Substitute, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 178**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 466**, by Representative B. Smith:

Amend printed copy of **HB 466** on page 6, after line 11 and before line 12 by inserting:

"***(d) The liability of an heir or devisee who inherits or is devised contaminated or polluted property held or managed by a representative shall be limited to the value of the contaminated or polluted property at the time the contamination or pollution is discovered or known.***"

On page 6, line 1, after "***to***" and before the period by inserting:

"***, but the liability shall be limited to the value of the contaminated or polluted property at the time the contamination or pollution is discovered or known.***"

Floor Amendment No. 2 to **HB 466**, by Representative B. Smith:

Amend printed copy of **HB 466** on page 6, after line 1 and before line 2, by inserting:

"1. The liability of an heir or devisee who inherits or is devised contaminated or polluted property shall be limited to the value of the contaminated or polluted property at the time the contamination or pollution is discovered or known.

2. The liability of a representative shall be limited to the value of the contaminated or polluted property at the time the contamination or pollution is discovered or known."

Orders of the Day (Continued)

HCR 52 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HCR 52** be adopted.

On the roll call the vote was: Yeas 92, Nays 0. (See February 21, 1992 roll call on **HCR 52** - Appendix.)

HCR 52 was adopted.

Representative Coleman moved that the vote by which **HCR 52** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SCR 5** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 9:37 a.m.)

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 120, by Representative Hancock: A RESOLUTION announcing the arrival of Joseph Haydon Barrows, son of our esteemed colleague Representative Joe Barrows, and his wife Jean, and adjourning in their honor.

Representative Stumbo moved the adoption of the following **HR 120**:

HR 120, A RESOLUTION announcing the arrival of Joseph Haydon Barrows, son of our esteemed colleague Representative Joe Barrows, and his wife Jean, and adjourning in their honor.

WHEREAS, after months of anticipation, nine to be exact, a brand new package has arrived on the doorstep of Jean and her husband Representative Joe Barrows; and

WHEREAS, it is a surprise to many that such a welcome addition should appear at such a busy time of the year insofar as the timing of these events are well known to all; and

WHEREAS, notwithstanding this interference in the important affairs with which this body is preoccupied, we are overjoyed at the prospect of sharing this cherished occasion with our friend and colleague Representative Joe Barrows; and

WHEREAS, Joseph Haydon Barrows made his appearance at 1:26 a.m., February 20, 1992, at Central Baptist Hospital, weighing in at eight pounds, eight ounces and twenty and one-half inches long; and

WHEREAS, it is already apparent that Joseph Haydon Barrows is a prodigy of enormous talent and possesses the vaunted good looks of his daddy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this venerable institution applauds the coming of Joseph Haydon Barrows and wishes him well in the years ahead as he follows in his daddy's footsteps.

Section 2. That this august body does hereby congratulate Jean and Representative Joe Barrows on the addition of Joseph Haydon Barrows to their family and adjourns this day in their honor.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Joe Barrows.

HR 120 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 120**.

On the roll call the vote was yeas 72—Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Kerr, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, Moberly, Morris, Nelson, Noe, Northup, Nunn, Palumbo, Rapier, Ravenscraft, Reinhardt, Richards, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Todd, Walker, Ward, Worthington, Yates, Zimmerman. Nays 8—Bowling, Bronger, LeMaster, Mullinix, Stumbo, Toby, Wayne, Williams.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 161**, by Representative R. Smith:

Amend printed copy of **HB 161/HCS** on page 3, line 1, delete "***six***" and insert in lieu thereof "***one***"; and

On page 3, line 2, after "***hundred***" and before "***dollars***" insert "***fifty***"; and

On page 3, line 2, delete "***$600***" and insert in lieu thereof "***$150***".

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 624, by Representative Zimmerman: AN ACT relating to police payroll deductions.

HB 625, by Representative Jones: AN ACT relating to retirement.

HB 626, by Representatives Little and Maggard: AN ACT relating to highways.

HB 627, by Representatives Sheehan, R. Smith, K. Harper, Williams and Walker: AN ACT relating to oil and gas pipelines.

HB 628, by Representatives Ridley, Altman, Pritchett and Rapier: AN ACT relating to commercial driver's licenses.

HB 629, by Representative Clarke: AN ACT relating to medical decisions.

HB 630, by Representatives Moberly, Stumbo, Noe, Barrows, Deskins and Bentley: AN ACT relating to relating to recycling.

HB 631, by Representatives Riggs and Stumbo: AN ACT relating to crimes and punishments.

HB 632, by Representative R. Smith: AN ACT relating to environmental protection regulations.

HB 633, by Representative Rapier: AN ACT relating to employee leave benefits.

HB 634, by Representative Hourigan: AN ACT relating to On-Site Sewage Disposal Systems.

HB 635, by Representatives Geveden, Bowling, Noe, Johnson, Riner, Reinhardt, Scorsone, Ridley and Little: AN ACT relating to health insurance.

HB 636, by Representatives Bruce and Morris: AN ACT relating to crimes and punishments.

HB 637, by Representative Freibert: AN ACT relating to vital statistics.

HB 638, by Representative Freibert: AN ACT relating to credit cards.

HB 639, by Representative Lewis: AN ACT relating to revenue and taxation.

HB 640, by Representative Stokes: AN ACT relating to county officials.

HJR 121, by Representative Ark: A RESOLUTION recognizing The Lincoln Museum, Inc. as Kentucky's official museum honoring President Abraham Lincoln.

HR 122, by Representatives Butler and Cyrus: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Gladys Zimmerman Crider.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 579**

Natural Resources and Environmental Protection: **HB 575**

Cities: **HB 551**

Elections and Constitutional Amendments: **HB 496**

Labor and Industry: **HB 405, HB 461, HB 462, HB 539, HB 544, HB 560, HB 571**

Judiciary: **HB 203, HB 479, HB 565, HB 550**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 114**, Representatives Ackerson, P. Clark; **HB 208**, Representative Ackerson; **HB 466**, Representative Todd; **HB 604**, Representative Callahan; **HR 120**, Representative LeMaster.

Representative P. Clark moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 178**. Agreed.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 122**:

HR 122, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Gladys Zimmerman Crider.

WHEREAS, Mary Gladys Zimmerman Crider was born on July 20, 1914, and traversed these earthly bounds on February 19, 1992; and

WHEREAS, no language can express the power and beauty, and heroism and majesty of a mother's love; and

WHEREAS, Mary Gladys Zimmerman Crider blessed the world with a daughter, Mary Alice, and two sons, George Raymond and John Thomas; and

WHEREAS, her children blessed her with 11 grandchildren and 6 great-grandchildren; and

WHEREAS, Mary Gladys Zimmerman Crider accepted the noble calling of a homemaker and dedicated many years and loving hands to the care, comfort and protection of the family she so dearly cherished; and

WHEREAS, in her life, Mary Gladys Zimmerman Crider followed the teachings and shared the spiritual values of her church; and

WHEREAS, her life touched the hearts and minds of countless people who knew her and loved her; and

WHEREAS, she cultivated the characters and spiritual stature of her family as carefully and lovingly as she cultivated the garden where she spent so many hours;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Mindful that Mary Gladys Zimmerman Crider was beset in later years by the devastating effects of Alzheimer's disease, this august body dedicates its support to all efforts to conquer this dreaded disease which robs countless Kentuckians of the joys of life long before their lives on this earth are completed.

Section 2. That this august body expresses its deepest sympathy and prays for God's grace to console its good friend, Ray Crider, during this time of grief and sorrow, and to the family of Mary Gladys Zimmerman Crider, the members of the House of Representatives extend their thoughts and prayers that the bereaved might be comforted and sustained in the many memories of their loved one.

Section 3. That when the House of Representatives adjourns this day, Friday, February 21, 1992, it does so in loving memory and honor of Mary Gladys Zimmerman Crider.

Section 4. That the Clerk of the House of Representatives is directed to transmit four copies of this Resolution to the Honorable Ray Crider, 1120 Franelm Road, Louisville, Kentucky 40214.

HR 122 was adopted by voice vote.

Announcements

The following meetings were announced:

Capital Construction, 2:00 p.m., February 24, 1992.

Economic Development, Room 129, upon adjournment, February 21, 1992.

Appropriations and Revenue, 9:00 a.m., Room 129, February 26, 1992.

Cities, 9:00 a.m., February 25, 1992.

The following meeting was cancelled:

Appropriations and Revenue, February 25, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, February 24, 1992.

On the roll call the vote was yeas 87—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 2—LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 24, 1992

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Mullinix and Walker.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 21, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 116**, **SB 119**, **HB 357** and **HB 6** with Senate Amendment. (Time 4:05 p.m.)

Introduction of Bills and Resolutions

HB 641, by Representative Butler: AN ACT relating to alcoholic beverage container sizes.

HB 642, by Representatives T. Smith, Deskins, Overstreet, Allen, Lile and Walker: AN ACT relating to a veterans' bonus and making an appropriation.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 635**

Appropriations and Revenue: **HB 639**

Banking and Insurance: **HB 638**

Business Organizations and Professions: **HB 630**

Counties and Special Districts: **HB 640**

Education: **HB 633**

Health and Welfare: **HB 634, HB 637**

Judiciary: **HB 631, HB 636, HB 629**

Natural Resources and Environmental Protection: **HB 621, HB 622, HB 623, HB 632**

State Government: **HB 624, HB 625, HJR 121**

Tourism Development and Energy: **HB 627**

Transportation: **HB 626, HB 628**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 587, HB 588**

Education: **HB 427, HB 592**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Education: **HB 143**

Report of Committees

The Committee on Rules reported that **HCR 76** has been posted for passage in the Orders of the Day for February 25, 1992.

The Committee on Economic Development reported **HB 89**, with Committee Substitutes and Title Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 89** is as follows:

HB 89, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The mission of the Commonwealth's economic development system shall be to achieve the best quality of life for all Kentuckians through long-term strategic planning and implementation that fosters sustainable growth in jobs and incomes and enables communities, businesses, governments, and individuals to compete in the global marketplace.

(2) The goals for the Commonwealth's economic development system shall be as follows:

(a) By the year 1993, Kentucky will have an economic development partnership of government, business, education, communities, and individuals that provides a coordinated planning and implementation process which establishes government priorities for action and accountability, supports rural and urban communities to invest in their own futures, assists businesses to acquire the resources to compete, and prepares individuals for work in high quality jobs; and

(b) By the year 2000, Kentucky will have people and institutions with the capacity to adapt to future change; a skilled, competitive workforce; thriving and healthy communities throughout the state; and increased wealth and high quality jobs with greater opportunities to compete for them.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context indicates otherwise:

(1) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in Section 17 of this Act;

(2) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in Section 3 of this Act;

(3) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250, and governed by the Kentucky Economic Development Partnership;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including, but not limited to, acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(6) "Local and regional economic development interest" means any local business or economic development interest, including, but not limited to, chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;

(7) "Industrial entity" means any corporation, partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth;

(8) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods of processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;

(9) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;

(10) "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;

(11) "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;

(12) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(13) "Private sector" means any other source than the authority, a state or federal entity, or an agency thereof;

(14) "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(15) "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;

(16) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection (14) of this section;

(17) "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

(18) "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;

(19) "State" means the Commonwealth of Kentucky; and

(20) "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky Economic Development Partnership, a board governing the Cabinet for Economic Development, is created and established, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through sustainable economic development, as prescribed in Section 1 of this Act.

(b) The board shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 12.010, but it and the cabinet shall not be subject to the reorganization by the Governor, KRS Chapter 12, notwithstanding.

(c) The board shall serve as the governing body of the cabinet and shall exercise all powers and authorities conferred upon it by statute, including, but not limited to, the following functions:

1. Strategic planning;

2. Finance;

3. Business assistance;

4. Marketing and promotion;

5. Community development;

6. Workforce development;

7. Innovation; and

8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The board shall consist of the Governor, who shall be a nonvoting member, and eleven (11) voting members, three (3) of whom shall be the secretaries of the finance and administration, the economic development, the natural resources and environmental protection cabinets, and eight (8) private sector members who shall be appointed by the Governor.

(3) By no later than thirty (30) days after the effective date of this Act, the governing bodies of each of the following organizations shall meet and nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth and two (2) persons from the state at large, as candidates for the initial appointment as private sector members to the board:

(a) The Kentucky Industrial Development Council;

(b) The Associated Industries of Kentucky;

(c) The Kentucky State AFL-CIO;

(d) The Kentucky Farm Bureau Federation;

(e) The Kentucky Chamber of Commerce; and

(f) The Kentucky Economic Development Corporation.

(4) The Governor shall select the original eight (8) private sector members from the aggregation of the lists provided pursuant to subsection (3) with at least one (1) appointment being chosen from each organization's list. After the initial appointments, appointments to vacancies shall be made in the same manner as prescribed in subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.

(5) The terms of office of the initial appointments of the private sector members to the board shall be staggered so that one-fourth (1/4) of all appointments shall expire one (1), two (2), three (3), and four (4) years, respectively, from the date of their appointment. All succeeding appointments shall be for four (4) years.

(6) In making appointments to the board, the Governor shall attempt to assure broad geographical representation, as well as, representation from the major sectors of Kentucky's economy by leading executives with a knowledge of the problems of large and small businesses, local economic development and the transfer of research and development from the laboratory to the marketplace. In filling vacancies, the Governor shall attempt to assure the continuing representation on the board of broad constituencies of Kentucky's economy, including manufacturing and agriculture.

(7) Vacancies on the board which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any private sector member misses more than two (2) consecutive meetings of the board, then that position shall be declared vacant and filled in accordance with this section.

(8) The board shall meet quarterly and at other times upon call of the chairman or a majority of the board.

(9) A quorum shall be a majority of the voting membership of the board.

(10) A quorum shall be required to organize and conduct the business of the board, except that an affirmative vote of seven (7) or more members of the entire board shall be required to fire the cabinet's secretary, and to adopt or amend the strategic plan.

(11) Private sector members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Governor shall be the chairman of the board and upon his absence the secretary of the Cabinet for Economic Development shall serve as chairman.

(2) The board shall elect from among the private sector members a vice chairman of the board. The initial term of office for the vice chairman shall expire December 31, 1994, and the subsequent terms of office of the vice chairman shall be for a period of two (2) years.

(3) Upon the absence of both the Governor and the secretary, the vice chairman shall serve as chairman.

(4) The board may establish an executive committee consisting of the chairman, the vice chairman, the secretary of the cabinet, and not more than three (3) additional board members selected jointly by the chairman and vice chairman. The executive committee shall have such authority as the board delegates to it, except that the board shall not delegate to the executive committee the authority to take actions requiring approval by a majority of the entire board under subsection (10) of Section 3 of this Act.

(5) The secretary and other officers and employees of the cabinet shall not be required to disclose confidential information concerning existing businesses or business prospects with which the board or cabinet is dealing, including the identity of the businesses, to members of the board other than the executive committee. The executive committee shall provide advice and assistance to the secretary in negotiations with existing and prospective businesses. In the event the cabinet enters into an agreement with a business entity which requires approval by the General Assembly, the agreement shall be presented by the secretary to the board, which shall make a recommendation of approval or disapproval of the agreement to the General Assembly.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board and the cabinet, including, but not limited to, the following:

(1) Serving as the governing body of the Cabinet for Economic Development;

(2) Suing and being sued;

(3) Adopting, using, and altering at will a corporate seal;

(4) Approving economic development programs and projects;

(5) Discharging the secretary of the Cabinet for Economic Development;

(6) Approving the state's strategic economic development plan and subsequent implementation plans;

(7) Providing for and directing the state's economic development strategic planning process;

(8) Evaluating the performance and effectiveness of the Commonwealth's economic development systems, including:

(a) The establishment of benchmarks; and

(b) Program review;

(9) Reporting to the Governor, the General Assembly, and the people of the Commonwealth regarding its functions, duties, and responsibilities, including, but not limited to:

(a) The Commonwealth's strategic economic development plan;

(b) Program initiatives and implementation plans;

(c) Systems evaluations;

(d) Benchmarks;

(e) Program evaluation; and

(f) Activities of the cabinet;

(10) Soliciting, borrowing, accepting, receiving, investing and expending funds from any public or private source;

(11) Making grants, loans, and investments; guaranteeing and insuring loans, leases, bonds, notes, or other indebtedness, whether public or private; issuing letters of credit; and making loans to financial institutions to facilitate financing of all or part of an export-related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(12) Constructing, acquiring by gift, purchase, installment purchase, or lease, and reconstructing, improving, repairing, or equipping any project or any part of a project; and entering into a lease for the use or sale of a project;

(13) Making loans and participating in the making of loans; undertaking commitments to make loans and mortgages; buying and selling loans and mortgages at public or private sale; rewriting loans and mortgages; discharging loans and mortgages; foreclosing on mortgages and commencing any action to protect or enforce a right conferred upon the cabinet or placed within the control, authority, and responsibility of the cabinet under the provisions of this chapter; bidding for and purchasing property which was the subject of the mortgage at a foreclosure or other sale, and acquiring or taking possession of the property and, in that event, completing, administering, paying the principal and interest on obligations incurred in connection with the property; and disposing of and otherwise dealing with the property in a manner as may be necessary or desirable to protect the interests of the cabinet;

(14) Entering into a lease for the use or sale of a project; acquiring or contracting from any person, public entity, corporation, partnership, or entity, leaseholds, real or personal property or any interest in real or personal property; owning, holding, clearing, improving, and rehabilitating and selling, assigning, exchanging, transfering, conveying, leasing, mortgaging, or otherwise disposing of or encumbering leaseholds, real or personal property, or any interest in real or personal property as is convenient for the accomplishment of the purposes of this chapter;

(15) Procuring insurance against any loss in connection with the cabinet's property, assets, or activities;

(16) Charging, imposing and collecting fees and charges in connection with any transaction, and providing for reasonable penalties for delinquent payment of fees or charges;

(17) Indemnifying and procuring insurance indemnifying members and officers of the board, and the cabinet and members and officers of the finance committee of the Kentucky Economic Development Finance Authority as provided in Section 17 of this Act, from personal loss or accountability from liability asserted by any person on the bonds or notes of the cabinet or authority, or any personal liability or accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or by reason of acquisition, construction, ownership, or operation of any project funded in whole or part by the cabinet or authority; or by reason of any other action taken or the failure to act by the cabinet or authority;

(18) Mortgaging or creating security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of the bonds or notes issued by the cabinet;

(19) Conveying or releasing a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under the terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes or as may otherwise be agreed with the holders of the bonds or notes;

(20) Issuing non-appropriation-supported bonds and notes including, but not limited to, commercial paper, refund bonds, and notes; paying the costs of issuance of bonds and notes; paying interest and notes;

(21) Making and entering into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers;

(22) Employing consultants and other persons and employees as may be required in the judgment of the cabinet, essential to its operations, functions, and responsibilities;

(23) Providing technical assistance regarding any economic or job development project, program, or activity;

(24) Delegating any powers, duties, responsibilities, and authority to any division, agency, or authority under its control and administration;

(25) Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative body under its control and jurisdiction;

(26) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as prescribed in this chapter and governing the powers, duties, and responsibilities delegated to any administrative body transferred to the cabinet by law or otherwise placed within its control and responsibility; and

(27) Doing all other things necessary or convenient to achieve its objectives and purposes which are not explicitly prohibited by statute.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) In the selection and appointment of the secretary, the board shall set the qualifications for the position of the secretary, employ a national search firm and conduct a nationwide search for candidates, and select from that list three (3) candidates for secretary of the Cabinet for Economic Development. The names of the three (3) candidates shall be submitted to the Governor who shall choose one of them as secretary, except that, if the Governor so chooses, he may reject the first list of names and direct the board to submit a list of three (3) additional names, from which he shall appoint the secretary. Once appointed, the secretary shall serve at the pleasure of the board.

(2) The secretary shall be a person with significant experience and established reputation as an economic development professional.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in Section 8 of this Act; submit the strategic plan for economic development to the board in accordance with the provisions of Sections 12 to 13 of this Act; submit program evaluation reports to the board in accordance with the provisions of Section 14 of this Act; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall present annually to the board for its review and approval implementation plans for the approved strategies as set forth in the Commonwealth's approved strategic economic development plan for which funds will be expended by the cabinet or other agencies receiving funds from the cabinet.

(2) Any agency receiving funds from or through the cabinet shall submit annually implementation plans to the board for its review and approval.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board shall have authority to direct the cabinet to initiate any new programs that it deems appropriate, including, but not limited to:

(a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment. If this program is created, the board may contract for its administration with the Commonwealth venture fund;

(b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the board may contract for its administration with the Kentucky Science and Technology Council, Inc.;

(c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;

(d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;

(e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;

(f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;

(g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the cabinet in developing responses to suit specific needs of Kentucky businesses and industries;

(h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small- and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;

(i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;

(j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.

1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.

2. Communities having deficiencies should meet the stated criteria through assistance from readily available regional and local facilities and institutions; and

(k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board shall have the authority to contract for the provision of any economic development function or service with private firms or public institutions provided that such contracts meet the following conditions:

(a) They are based on competitive requests for proposals;

(b) They incorporate strict performance standards and accountability criteria;

(c) They require periodic audit;

(d) They are subject to regular rebidding; and

(e) Where appropriate, they leverage other private and public funds.

(2) Wherever feasible, the board shall contract for the provision of functions and services rather than establishing new governmental structures.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board shall establish a statewide network of information transfer and assistance linkages with appropriate local economic development agencies and entities providing economic development services and financing.

(2) The purpose of the network shall be to facilitate strategic planning and coordinate service delivery by providing ready access by communities and businesses to all aspects of cabinet operations and to all providers of economic development assistance, and by providing the cabinet with ready access to the most complete and up-to-date information concerning communities, businesses, and economic development service providers.

(3) The network shall employ, to the greatest extent feasible, compatible hardware and software and common databases and library and information services networks in order to ensure a free flow of information and assistance among the components of the network.

(4) In those communities and regions which do not have appropriate existing economic development organizations or agencies, the cabinet shall serve as a catalyst to bring together the elements of private businesses, education, government, and community leaders necessary to form a local or regional economic development operation. Upon the establishment of an appropriate organization, it shall become an element of the statewide economic development network.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The framework for the strategic plan shall include the following elements:

(a) Mission Statement;

(b) Goals;

(c) Principles;

(d) Strategies and objectives; and

(e) Benchmarks.

(2) The goals as specified in Section 1 of this Act should not be considered static, but dynamic, and therefore shall be reviewed for relevancy at least every four (4) years.

(3) Plan horizon and frequency of updates shall be as follows:

(a) The planning horizon for the Commonwealth's strategic economic development plan shall be for a period of not less than five (5) nor more than ten (10) years.

(b) The board shall prepare and adopt, pursuant to subsection (6) of Section 5 of this Act, a strategic economic development plan for Kentucky within one (1) year from the effective date of this Act and shall update the plan every two (2) years thereafter.

(4) The strategic economic development planning process shall include the broadest participation of all public and private interests including, but not limited to, members of the General Assembly; state agencies; local, regional, and statewide associations with interest in economic development; and members of the various industrial sectors.

(5) In the preparation and finalization of recommendations contained in the Commonwealth's strategic economic development plan:

(a) The board shall conduct at least one (1) public hearing with due legal notice given in accordance with KRS Chapter 424;

(b) The board may employ consultants and other experts deemed necessary and appropriate for the purposes of this chapter; and

(c) The board shall work cooperatively with the governing authorities of the Kentucky Infrastructure Authority and the Commonwealth's Federal Community Development Block Grant Program to ensure coordination between projects approved by those bodies and the strategic economic development plan.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The strategic economic development plan shall include, but not be limited to:

(a) A review with reconfirmation or modification of stated goals;

(b) An analysis of the current world economy and its impact on the economy of Kentucky and the nature of the competitive environment within which Kentucky's workforce and businesses must compete;

(c) An analysis of broad trends of economic change;

(d) The identification of the position of Kentucky's workforce, businesses, and communities relative to the external economic environment;

(e) A statewide and regional assessment of Kentucky's economic strengths and weaknesses;

(f) An analysis of the sustainability of Kentucky's economy over time; and

(g) Identification of strategies, objectives, and actions to be taken to improve Kentucky's competitive position with focus given to human and natural resources development, infrastructure, capital, technology, entrepreneurship, modernization, quality of life, and institutional development.

(2) Under each strategy, a discussion shall be provided of the objectives to be established within a set time frame, including:

(a) Programs to be established and administered;

(b) Funding required; and

(c) Public policies to be pursued.

(3) In the development of the initial strategic economic development plan, the board shall be guided by, but not limited to, the following principles:

(a) Economic development shall be a partnership of government, private business, local communities, and education;

(b) Growth of jobs and incomes shall come from new business creation in Kentucky, existing Kentucky businesses, and attraction of new business to Kentucky;

(c) Economic development and environmental protection are compatible objectives;

(d) Strategies for economic development shall focus on:

1. Systems, not programs;

2. Regions and sectors, not individual businesses;

3. Decentralization;

4. Participation by users;

5. Helping communities to help themselves;

6. Activities that will make Kentucky products globally competitive;

7. Education and assistance, as well as financing;

8. Financing as an investment;

9. Retaining and growing Kentucky businesses;

10. Creating high value job opportunities to all who have prepared themselves; and

11. Encouragement of private sector investment; and

(e) Economic development strategies approved by the board shall remain flexible to keep Kentucky competitive in a rapidly changing environment.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board shall establish objective benchmarks to measure the performance of Kentucky's economy and progress toward achievement of the mission statement, goals, and guiding principles. Criteria used in establishing the benchmarks shall include, but not be limited to:

(a) Use of the statistical information commonly provided by governmental agencies, or specific data gathered by authorization of the board;

(b) Comparison of regions and areas within the Commonwealth;

(c) Comparisons of Kentucky to other states, the nation, and international areas;

(d) Inclusion of measures of income, earnings, and employment; and

(e) Goals for achievement of appropriate levels over time.

(2) Examples of appropriate benchmarks include, but are not limited to:

(a) Kentucky's gross state product as compared with the midwestern and southeastern states and the United States gross national product;

(b) Personal income data used to compare Kentucky to national income and an average of benchmark states;

(c) Wage and salary growth compared by counties, regions, and states; and

(d) Earnings-weighted job indices to compare metropolitan areas, rural areas, and other subdivisions of the Commonwealth.

(3) The University of Kentucky, Center for Business and Economic Research, and the University of Louisville, Bureau of Economic Research, annually shall prepare jointly and submit to the Governor, the General Assembly, and the board a report detailing and grading Kentucky's progress with regard to each benchmark. The board shall publish the report and make available to the public at no cost.

(4) The board shall evaluate the effectiveness of established implementation activities.

(5) The board shall conduct periodic evaluations of projects funded or otherwise assisted by the cabinet to determine the return on cabinet investments and to ensure compliance with commitments made as conditions of cabinet investment. Results of the evaluations shall be reported to the board, the General Assembly, and the public.

(6) The board may retain outside independent agencies to evaluate the effectiveness of economic development programs and systems and to certify the results of reports prepared pursuant to subsection (3) of this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The board may establish one or more regional offices and provide staff as necessary to perform functions as prescribed by the board.

(2) The board may establish regional advisory boards consisting of representatives of government, private business, communities, and higher education; and prescribe their functions and responsibilities.

(3) The board may contract with existing economic development agencies as necessary to perform functions as prescribed by the board.

SECTION 16. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The secretary and the directors of other state agencies and entities receiving state funds for programs and activities which may affect state economic development shall cooperate in the coordination of those programs and activities to achieve the successful implementation of the state's strategic economic development plan.

(2) The board shall compile a list of state agencies and the extent to which they have direct programmatic involvement in Kentucky's economic development systems. This information shall be presented to the General Assembly before each regular session for the purpose of considering programmatic and budget adjustments.

(3) Nothing in this chapter shall be construed as modifying, superseding, or repealing any provisions of KRS Chapter 146, 151, 224, or 350, or the obligations of the Natural Resources and Environmental Protection Cabinet under those chapters.

SECTION 17. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established within the cabinet the Kentucky Economic Development Finance Authority which shall have all powers, duties, and responsibilities delegated to it by the board or as otherwise provided by law, including, all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.

(2) Any interest, right, or cause of action held in whole or in part by any person, corporation, partnership, government agency, or entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board, shall not be impaired or otherwise diminished.

(3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.

(4) The authority shall consist of a committee of five (5) persons appointed by the board. Any person appointed to the committee shall have experience and expertise in finance.

(5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, and three (3) members initially appointed to the committee shall have a term of two (2) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of two (2) years.

(6) Any person appointed to the committee shall be eligible for reappointment.

(7) The members of the committee shall elect biennially from their membership the following officers: chairman, vice chairman, and secretary-treasurer.

(8) The committee shall prepare bylaws and procedures applicable to the operations of the authority and submit them to the board to be promulgated as administrative regulations in accordance with KRS Chapter 13A.

(9) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars ($100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

(10) A majority of the entire committee shall be required to conduct any business of the authority.

SECTION 18. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for Human Resources in facilitation of KRS 194.245(1).

Section 19. KRS 154.005 is amended to read as follows:

It shall be the purpose of ***the Kentucky Economic Development Finance Authority*** [~~this chapter to create a body corporate and politic to be known as the "Kentucky Development Finance Authority" which shall exist and operate to help diversify the economy of this state,~~] to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, ***to reduce the costs and liabilities by encouraging and financing efforts to reduce and avoid the generation of hazardous waste and toxic by-products,*** to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 20. KRS 154.043 is amended to read as follows:

(1) The authority may, ***upon approval of the board,*** borrow money and issue bonds or notes ***in accordance with Section 30 of this Act and other provisions of this chapter appertaining***, subject to KRS 42.420, for the following purposes:

(a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for the cost of a project or any part thereof; to make loans pursuant to subsection ***(11) of Section 5 of this Act*** [~~(18) of KRS 154.041~~] for an export related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

(b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section; or

(c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its chairman or other officer to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds; or

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following convenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter.

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the Circuit Court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way effect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

Section 21. KRS 154.180 is amended to read as follows:

(1) On or before October 1, ***1992*** [~~1988~~], and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, [~~as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090, which is in progress,~~] along with an updated cost [~~of a project, as defined by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report to the Legislative Research Commission, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky ***Economic*** Development Finance Authority.

(3) In addition to the project status report, all construction, reconstruction or alteration, financed or facilitated in whole or in part by the authority [~~granted by KRS 154.005 to 154.061, 154.180, 350.010 and 350.090,~~] shall be reported to the Kentucky Department of Employment Services, Cabinet for Human Resources, and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This ***construction activity*** report [~~shall be entitled "K.D.F.A. Construction Activity Report" and~~] shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

[~~(4) If the authority fails to deliver the written project status report, K.D.F.A. Construction Activity Report, or the overview report to the appropriate agency as specified in this section, within fifteen (15) days after the required due date, the salary of the executive director of the Kentucky Development Finance Authority shall be withheld until such report is received.~~]

SECTION 22. KRS 152.260 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The following words and terms ***as used in Sections 22 to 28 of this Act***, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

(2) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, and installation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, and installation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, and installation of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(3) "Assessment" means the job development assessment fee authorized by ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

(4) "Authority" means the Kentucky [~~Rural~~] Economic Development ***Finance*** Authority ***as created in Section 17 of this Act*** [~~created by KRS 152.262 to 152.298~~].

(5) "Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(6) "Commonwealth" means the Commonwealth of Kentucky.

(7) "Economic development project" means and includes the acquisition of any real estate in a qualified county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition and installation of manufacturing facilities on the real estate, for lease by the authority to an approved company for use and occupancy by the approved company or its affiliates for manufacturing purposes.

(8) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity engaged in manufacturing which meets the standards promulgated by the authority pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

(9) "Financing agreement" means any agreement entered into, pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~], on behalf of the authority or other lenders or both and an approved company with respect to an economic development project.

(10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution, and related office facilities in respect thereof; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of minerals.

(11) "Qualified county" means any county certified as such by the authority pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

(12) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

(13) "Revenues" shall not be considered state funds.

SECTION 23. KRS 152.262 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth, and particularly those residing in qualified counties, depends in large measure upon the development and growth of industry in the Commonwealth.

(2) The General Assembly hereby finds and declares further that it is in the best interest of the Commonwealth to induce the location of manufacturing facilities within the qualified counties of the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs within the qualified counties that but for the inducements to be offered by the authority to approved companies as herein provided would not exist and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth and qualified counties.

(3) The General Assembly hereby finds and declares further that the authority granted by ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~] and the purposes to be accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of manufacturing facilities within qualified counties is of paramount importance, mandating that the provisions of ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~] be liberally construed and applied in order to advance the public purposes.

SECTION 24. KRS 152.266 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The ***Kentucky Economic Development Finance*** Authority shall have ***in addition to the powers provided in this chapter*** all the powers necessary or convenient to carry out and effectuate the purposes and provisions of ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~], including, but without limiting the generality of the foregoing, the power ***to***:

(1) [~~To~~] Provide and finance economic development projects pursuant to the provisions of ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~], and cooperate with qualified counties and eligible companies in order to promote, foster and support economic development within the qualified counties;

(2) [~~To~~] Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees, for the purpose of gathering information with respect to qualified counties, eligible companies, and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~]; ***and***

(3) [~~To~~] Negotiate the terms of and enter into financing agreements with approved companies, and in connection therewith to acquire, convey, sell, mortgage, finance, or otherwise dispose of any property, real or personal, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor;

[~~(4) To appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in KRS 152.262 to 152.298 and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;~~

~~(5) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the authority is a party;~~

~~(6) To include in any borrowing the amounts deemed necessary by the authority to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees, and other expenses necessary or incident to the borrowing;~~

~~(7) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate its purposes, and necessary to administer the procedures and program as provided for in KRS 152.262 to 152.298;~~

~~(8) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of KRS 152.262 to 152.298, including any financing agreements with state agencies or any political subdivisions of the Commonwealth under which funds may be pledged by or to the authority for the payment of its bonds;~~

~~(9) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;~~

~~(10) To sue and be sued in its own name, plead and be impleaded;~~

~~(11) To maintain an office in the city of Frankfort and at any other place or places as it may determine;~~

~~(12) To adopt an official seal and alter the same at pleasure;~~

~~(13) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;~~

~~(14) To employ fiscal consultants, attorneys, appraisers, investment advisors, trustees and other consultants, agents and employees required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;~~

~~(15) To invest any funds held by the authority or its agents or trustees, including, but not limited to, the proceeds of bonds issued under KRS 152.262 to 152.298, reserve or other funds, or any moneys not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by KRS 386.020; and~~

~~(16) To exercise any or all of the general corporate powers of a nonprofit corporation organized under the laws of the Commonwealth and not inconsistent with the provisions of KRS 152.262 to 152.298.~~]

SECTION 25. KRS 152.276 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Each year the authority shall ***under its rural economic development assistance program***, on the basis of the final unemployment figures calculated by the Department of Employment Services within the Cabinet for Human Resources, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in four (4) of the most recent five (5) consecutive years and shall certify those counties as qualified counties. [~~Any county with a population of nine thousand (9,000) or less, according to the annual population figure calculated by the U.S. Bureau of the Census, may also be certified as a qualified county by the authority, regardless of the county's annual unemployment.~~] If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate above the state average, then the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~] unless the financing agreements required herein are entered into by all parties within one (1) year after the date of the decertification.

(2) The authority shall ***establish the procedures and*** [~~promulgate~~] standards for the determination and approval of eligible companies and their economic development projects ***by the promulgation of administrative regulations in accordance with KRS Chapter 13A***. These standards shall give greatest weight to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project. No economic development project which will replace manufacturing facilities existing in the state shall be approved by the authority. With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. After a diligent review of relevant materials and completion of its inquiries, the authority may by resolution of its ***governing committee*** [~~board of directors~~] designate an eligible company to be an approved company and authorize the undertaking of its economic development project in the qualified county.

SECTION 26. KRS 152.278 IS REPEALED AND REENACTED AS NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the authority, and the approved company, except that each financing agreement shall include the following provisions:

(1) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(2) The financing agreement shall specify that the annual obligations of the approved company pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~] shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(3) (a) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

1. A one hundred percent (100%) credit against the Kentucky state income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid under the respective financing agreement; plus

2. The aggregate assessment withheld by the approved company in each year.

(b) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(4) (a) The financing agreement shall provide that the assessments, when added to the credit for the Kentucky state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year, however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

(b) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(5) The financing agreement shall provide that:

(a) It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

(b) Upon the default by the approved company in the obligation to render its annual payment, the authority shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and sell the economic development project at public or private sale, or to pursue any other remedies available under the Kentucky Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

SECTION 27. KRS 152.280 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The approved company shall be entitled to a credit against the Kentucky corporate income tax liability mandated by KRS Chapter 141, on such income as may result from the operation of the approved project; the credit shall be equal to the total amount of the liability, not to exceed the total debt service paid under the respective financing agreement.

(2) Thirty (30) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the state income tax liability for the preceding year of each approved company with respect to an economic development project financed through the issuance of bonds and the amounts of any tax credits taken pursuant to ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

SECTION 28. KRS 152.282 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 TO READ AS FOLLOWS:

(1) The approved company may require that each employee, as a condition of employment, agrees to pay a job development assessment fee, not to exceed six percent (6%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project.

(2) Each employee so assessed shall be entitled to credits against Kentucky income and local occupational taxes as follows:

(a) Two-thirds (2/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit of Kentucky income tax withheld as provided by KRS 141.350;

(b) One-third (1/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the taxable year in the jurisdiction in which the economic development project is located.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall lapse on the date the bonds are retired.

SECTION 29. KRS 152.052 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The ***board shall promulgate*** [~~secretary of the Cabinet for Economic Development shall adopt~~] administrative regulations ***in accordance with KRS Chapter 13A*** for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement;

(c) Degree and conditions of project payback; and

(d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.

(3) Prior to submission of an economic development bond project to the Capital Projects and Bond ***Oversight*** Committee, the ***authority*** [~~secretary of the Cabinet for Economic Development~~] shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the ***Capital Projects and Bond Oversight*** Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) The Kentucky General Assembly hereby finds that encouraging development of new markets for recycled products in order to extend landfill capacity in the Commonwealth is an important economic development strategy. Beginning with February 26, 1991, the Cabinet for Economic Development shall set as a target a minimum of twenty percent (20%) of the funds available to the bond program for funding projects which create or expand markets for materials recovered or diverted from the solid waste stream notwithstanding the direct number of jobs to be created or retained by such projects.

(5) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any

project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the ***board*** [~~secretary of the Finance and Administration Cabinet~~], and the State Property and Buildings Commission, under the provisions of KRS ***56.450*** [~~56.440 and 56.720~~].

(6) Following the approval by the ***board*** [~~secretary of the Finance and Administration Cabinet~~] and the State Property and Buildings Commission, the project shall be presented by the ***secretary of the*** Cabinet for Economic Development with supporting documentation at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee for review and approval, pursuant to KRS 45.810.

(7) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(8) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the bonds issued, the amounts paid back, and the balance still owing.

(9) The secretary of the Cabinet for Economic Development shall provide semiannual reports to the Interim Joint Committee on Agriculture and Natural Resources on the programs carried out by the cabinet to promote market development for recycled products. In the semiannual reports, the secretary shall cite specific recycling-related projects and investments made under the economic development bond program and other programs within the cabinet's jurisdiction.

SECTION 30. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of the Kentucky Revised Statutes, the board is authorized to exercise the following power:

(a) The board may provide for the issuance of economic development revenue bonds by the cabinet, for the purpose of providing funds and moneys to enable the cabinet to exercise and fulfill the powers and authority set forth in Section 5 of this Act, to enter into agreements with governmental agencies and private companies, corporations, partnerships, and other such entities, acquire and lease projects to governmental agencies and private companies, corporations, cabinet, and other such entities, purchase obligations of governmental agencies issued for economic development projects, and make loans or grants for economic development projects, and to enable the cabinet generally to carry out and effectuate its proper purposes under this chapter. In anticipation of the issuance of the revenue bonds, the board may provide for the issuance at one (1) time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of the state. The principal of and the interest on the revenue bonds or notes shall be payable solely from revenues made available to the cabinet for bond purposes. Any such notes may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the board deem it financially practicable to pay the notes directly from revenues made available to the cabinet for bond purposes, the notes may be paid from any revenues made available to the cabinet for bond purposes. Prior to the issuance of the bonds or notes, the cabinet shall submit any proposed issue to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with provisions of KRS 45.810.

(b) The revenue bonds or notes of the cabinet shall be dated and may be redeemable prior to maturity at the option of the board at prices and under terms and conditions determined by the board. Any bonds or notes shall bear interest at the rate or rates, shall be payable annually or at shorter intervals, and may bear conversion privileges determined by the board. Notes shall mature at the time or times not exceeding five (5) years from their date or dates, and revenue bonds shall mature at the time or times not exceeding forty (40) years from their date or dates as may be determined by the board. The board shall determine the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer of the board whose signature or facsimile of whose signature shall appear on any revenue bonds or notes shall cease to be such officer before the delivery thereof, the signature of the facsimile shall be valid and sufficient for all purposes, the same as if the officer had remained in office until the delivery. At the time of issuance of variable rate revenue bonds, the board may designate individuals or institutions which, in the sole judgment of the board, have financial market expertise to serve as agent for the board for establishing and changing from time to time, while the variable rate revenue bonds remain outstanding, the rate of interest to be borne by and the price to be paid for the revenue bonds. The rate-setting procedures and authority of each agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the board at the time of issuance of the revenue bonds. At the time of the issuance of the revenue bonds, the board shall establish the maximum interest rate to be borne by the revenue bonds. The board shall retain the right to remove or replace any agent at any time and for any reason. The board may provide that said bonds or notes may be executed only with the facsimile signatures of its officers, but said bonds or notes shall

be executed with the manual signature of a bank or trust company designated by the board as registrar and paying agent.

(c) All revenue bonds or notes issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of the state. The board may sell the revenue bonds or notes in the manner, either at public or private negotiated sale, and for the price, as it may determine will best effect the purpose of this chapter. If revenue bonds are sold at public, competitive sale, the revenue bonds shall be sold after newspaper advertising conforming to the requirements of KRS Chapter 424 and competitive bids for the sale of the revenue bonds shall be opened and read publicly by the board at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(d) In its proceedings authorizing the issuance of revenue bonds or notes, the board shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of revenues made available to the cabinet for bond purposes, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the cabinet may be authorized and issued from time to time. The proceedings, determinations, and enactments of the board shall specify that the payment of principal of and interest on all cabinet revenue bonds and notes shall constitute a first charge and lien against all revenues made available to the cabinet for bond purposes before any such revenues are used, applied, and disbursed for any other valid purposes of the cabinet, including the payment of operation and maintenance costs incident to the operation of the cabinet.

(e) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the cabinet to enter into agreements or interim financing agreements with governmental agencies and private companies, corporations, partnerships, and other entities, to acquire and lease projects to governmental agencies, private companies, corporations, partnerships and other entities, to purchase obligations of governmental agencies issued for economic development projects, to make loans or grants to governmental agencies, private companies, corporations, partnerships, and other such entities for economic development projects, or for any purpose authorized in this chapter. Revenue bond or note proceeds may also be used and applied for the payment of ordinary and necessary expenses in connection with issuance of the revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale thereof, if discount bids are authorized and permitted by the board, administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.

(f) Prior to the preparation of definitive revenue bonds or notes, the board may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive revenue bonds or notes when the revenue bonds or notes shall have been executed, and are available for delivery. The board shall also provide for the replacement of any revenue bonds or notes that shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the board without obtaining the consent or acquiescence of any cabinet, division, commission, board, department, or agency of the state other than the Finance and Administration Cabinet, and as provided in KRS 42.420, and without any other proceedings or the happening of any other conditions or things except as specifically required by this chapter and the provisions of the resolution or resolutions of the board authorizing the issuance of the revenue bonds or notes.

(2) The board shall assume all bond issuance and refunding authority, power, duties, and obligations as existed on the effective date of this Act for the Kentucky Development Finance Authority, and the Kentucky Rural Economic Development Authority; the ability of any of the foregoing organizations to issue industrial revenue bonds under KRS Chapter 103; and the ability of any of the foregoing authorities to issue economic development revenue bonds as provided in this chapter. The board shall also have the authority and power to issue revenue bonds for any other economic development activity as set forth in this chapter.

(3) The board shall for purposes of the Kentucky Revised Statues be deemed to be the successor issuer for all of the currently issued and outstanding bond issues by the organizations set forth in subsection (2) of this section. The board shall have the authority and the power to reaffirm all existing bond obligations of the organizations in subsection (2) of this section and shall perform all duties, obligations, and requirements as may be necessary and required under the bond documents relating to each and every such issue. The board shall also, in regard to each and every such issue, exercise its authority and power as set forth in this chapter.

(4) In the discretion of the board, any revenue bonds or notes issued under the provisions of this chapter may be secured by a trust indenture by and between the cabinet and corporate trustee which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. A

trust indenture, or the resolution of the board providing for the issuance of revenue bonds or notes, may pledge or assign for the security of the revenue bonds or notes, all or any part of the totality of revenues made available to the cabinet for bond purposes received and to be received. The trust indenture or resolution of the board may contain provisions for protecting and enforcing the rights and remedies of the bondholders which may be reasonable and proper, and not in violation of law, including, but not limited to, covenants and provisions setting forth the duties of the cabinet in relation to the purposes to which revenue bonds and note proceeds may be applied; the disposition or pledging of assets and revenues made available to the cabinet for bond purposes; and the custody, safeguarding, and application of all such revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of revenue bonds, notes, or revenues made available to the cabinet for bond purposes, to furnish such indemnifying bonds, or to pledge such securities as may be required by a trust indenture or resolution of the board. Any trust indenture or board resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders, where a trust indenture has been entered into. In addition to the foregoing, any trust indenture or board resolution may contain other provisions which the board determines to be reasonable and proper for the further security of the holders of any revenue bonds or notes. All expenses incurred in carrying out the provisions of a trust indenture or bond proceedings may be treated as a part of the cost of operating the cabinet, and may be paid from revenues pledged or assigned to the payment of the principal of and the interest on revenue bonds or notes, or from any other funds properly available to the cabinet for bond purposes. However, the payment of operational costs from revenues made available to the cabinet for bond purposes shall, as provided in subsection (1) of this section, be subordinate to the payment of principal of and interest on cabinet revenue bonds or notes from revenues made available to the cabinet for bond purposes, it being intended that these principal and interest requirements shall be secured by a prior and paramount lien on gross revenues made available to the cabinet for bond purposes.

(5) Notwithstanding any other provision to the contrary, any trust indenture or board resolution shall provide that, except to the extent the rights afforded to bondholders by this section shall be enforceable and enforced by a trustee under a trust indenture rather than by the bondholders, any holder of revenue bonds or notes issued by the cabinet or any of the coupons appurtenant thereto, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights generally arising under the laws of the Commonwealth, or granted under this chapter, or under a trust indenture, or by the resolution of the board authorizing the issuance of revenue bonds or notes, and may specifically enforce and compel by mandamus the performance of all duties required by this chapter, or by trust indenture, or board resolution, to be performed by the cabinet or by any officer or employee thereof, including, but not limited to, the prompt and full enforcement of the terms and conditions of all assistance agreements, to which the cabinet is a party.

(6) The cabinet is hereby authorized to provide for the issuance of refunding revenue bonds or notes for the purpose of refunding any revenue bonds or notes then outstanding, whether issued by the cabinet under the provisions of this chapter or one (1) of the agencies, authorities or organizations referenced in subsections (2) and (3) of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these revenue bonds or notes, and, if determined advisable by the board, for the additional purpose of providing further funds for the carrying out of the proper public and governmental purposes of the cabinet. The issuance and sale of the refunding revenue bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the cabinet in respect of the same, shall be governed by the provisions of this chapter which relate to the issuance of revenue bonds or notes, insofar as these provisions may be applicable.

(7) Refunding revenue bonds or notes may be sold or exchanged directly for outstanding revenue bonds or notes of the cabinet, and if sold, the proceeds thereof shall be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of these outstanding revenue bonds or notes. Pending the application of the proceeds of any refunding revenue bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium on the revenue bonds or notes being refunded (and if so provided or permitted in the board resolution authorizing the issuance of the refunding revenue bonds or notes, or in the trust indenture securing the same, to the payment of any interest on the refunding revenue bonds or notes and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America which shall mature or which shall be subject to redemption by the holders thereof at the option of such holders not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

(8) Revenue bonds and notes issued by the cabinet under the provisions of this chapter are hereby declared and deemed to be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds,

including capital in their control or belonging to them. These obligations of the cabinet are hereby declared and determined to be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth, for the purpose for which the deposit of bonds, notes, or obligations of the Commonwealth is now, or may hereafter be, authorized by law.

(9) Revenue bonds or notes issued by the cabinet under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof; but the bonds shall be payable as to principal and interest solely from revenues made available to the cabinet for bond purposes provided therefor under the provisions of this chapter. All such revenue bonds or notes shall contain on the face thereof a statement to the effect that neither the Commonwealth nor the cabinet shall be obligated to pay the same, or the interest thereon, except from revenues made available to the cabinet for bond purposes, as defined in this chapter; and that neither the faith and credit, nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of and interest on such revenue bonds or notes.

(10) The Commonwealth, for the specific use and benefit of the cabinet, may cause to be submitted to the voters of the state in a manner provided by Sections 49 and 50 of the Constitution of Kentucky, from time to time, propositions for the incurring of state indebtedness represented by general obligation bonds of the Commonwealth, the proceeds of which are to be made available to the cabinet and used and employed by the cabinet for all proper purposes.

(11) Subject to the provisions of KRS 56.870 to 56.873, the State Property and Buildings Commission or the Kentucky Turnpike Authority may issue bonds for which debt service originates with an appropriation of the General Assembly, and may make the proceeds available to the cabinet for all proper purposes.

(12) Funds appropriated to the cabinet by the General Assembly, including but not limited to repayments of revolving funds established with appropriations of the General Assembly or established with bond issues for which the debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with bond issuance are appropriated by the General Assembly, shall not be commingled with other funds made available to the cabinet and shall only be expended for the purposes specified by the General Assembly when the appropriation is made or as approved in subsequent actions of the General Assembly.

SECTION 31. KRS 152.020 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created ***within the Cabinet for Economic Development*** an agency of the state government to be known as the Department for Existing Business and Industry[~~, which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employees as are provided by law~~].

(2) The department ***and its divisions may be reorganized by the board, as it deems necessary, in accordance with the provisions of KRS 12.028. The department*** [~~, subject to the provisions of KRS 12.010 to 12.130,~~] shall be organized into a Division of Research and Planning, a Division of Minority Business, a Division of Small Business Assistance, a Division for Existing Industries, a Business Information Clearinghouse, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the Department for Existing Business and Industry. [~~The commissioner shall be appointed by the Governor and shall serve at the pleasure of the Governor.~~] The commissioner shall have general supervision and direction over all activities and functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the Cabinet for Economic Development [~~and the secretary of the Finance and Administration Cabinet,~~] when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The Division of Research and Planning, the Division of Minority Business, the Division of Small Business Assistance, and the Division for Existing Industries shall each be headed by directors appointed pursuant to KRS 12.050.

(5) The Office of Administrative Services shall be headed by an executive director appointed by the secretary, [~~with the approval of the Governor, pursuant to KRS 12.050~~] and shall provide administrative and

fiscal service support and perform all personnel functions for both the department and the Office of the Secretary of the Cabinet for Economic Development.

(6) The Business Information Clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed ***by the secretary*** [~~pursuant to KRS 12.050~~]. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.

SECTION 32. KRS 152.025 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) There is hereby created in the Cabinet for Economic Development an Office of Business and Technology. The office shall:

(a) Be headed by an executive director who shall be appointed by the secretary of the Cabinet for Economic Development [~~pursuant to KRS 12.050~~];

(b) Be attached to the office of the secretary of the Cabinet for Economic Development and shall report directly to the secretary;

(c) Be responsible for coordinating and monitoring the various activities being carried out in the Commonwealth by state agencies that relate to adapting advanced technologies to the work place; and

(d) Review and analyze the possibility of establishing research and technology centers in the Commonwealth.

(2) There is created in the Cabinet for Economic Development an Office of Industrial Development. The office shall be headed by an executive director who shall be appointed by the secretary of the Cabinet for Economic Development [~~pursuant to KRS 12.050~~].

(3) The cost of administrative facilities and services for the Office of Business and Technology and the Office of Industrial Development shall be paid by the Cabinet for Economic Development.

SECTION 33. KRS 152.060 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The Department ***for Existing Business and Industry*** shall assemble and keep in the offices of the department such information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities, and such other information as may be useful in executing the provisions of ***Sections 31 to 35 of this Act*** [~~KRS 152.010 to 152.080~~]. Such information shall be made available to any enterprise which, in the discretion of the ***secretary*** [~~commissioner~~], is legitimate and which contemplates location or operation within the Commonwealth. Such information shall, in the discretion of the ***secretary*** [~~commissioner~~], be made available to any governmental or private agency interested in securing the location or operation of any such legitimate enterprise within the Commonwealth.

(2) The department shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials, and such other information as may be useful in securing the location of such enterprise in the Commonwealth.

(3) The department shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The department shall carry out programs relating to industrial and commercial development, research and planning, community and industrial services, marketing development, small and minority business enterprise, international trade and reverse investment, and other programs designated by the ***board*** [~~Governor~~].

SECTION 34. KRS 152.070 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***for Existing Business and Industry*** shall prepare and publish, or cause to be prepared and published, maps, economic and industrial resources surveys of the state and of individual communities and areas, directories of manufacturers, exporters, and industrial services, surveys as related to natural resources and industrial and commercial needs, studies of agri-business opportunities, surveys of forestry industries potential, studies of industrial site characteristics, and other matters relating to the economic development of the Commonwealth as it shall deem necessary and advisable.

SECTION 35. KRS 152.075 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department for Existing Business and Industry shall be responsible for energy resource information. The ***secretary of the*** Cabinet for Economic Development may enter into a contractual agreement between the department and the Kentucky Geological Survey and such other organizations deemed necessary in order to perform this function.

Section 36. KRS 154.315 is amended to read as follows:

The purpose of ***KRS 65.510 to 65.530, 139.483, 154.315 to 154.340*** [~~KRS 65.510 to 65.530, 139.483, 154.310 to 154.345~~] is to create ***within the Cabinet for Economic Development*** [~~a state commission~~] to aid in the promotion and development of river-related industry, agriculture, and commerce in Kentucky; to aid in the promotion and development of local port authorities as authorized by KRS 65.510 to 65.650; to aid in the promotion and development of industrial districts, parks, and sites for accommodating industrial complexes that utilize the rivers and river-related resources; to analyze, plan, and aid in systematically developing river-related resources by the development of services and facilities; to promote the development of industrial parks and terminal facilities for manufacturing and distribution industries for attracting and serving private and public enterprises that are directly or indirectly river-oriented; to promote the exportation of Kentucky made products in foreign commerce, especially as related to the utilization of the navigable waterways; and to establish the powers necessary or appropriate to carry out and effectuate the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 37. KRS 154.330 is amended to read as follows:

(1) The ***cabinet*** [~~commission~~] may make application to the proper federal authorities for the establishment of a foreign trade zone wherever and whenever such a zone is desirable. KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~] will constitute legislative authority and approval of such applications, as required by federal law.

(2) Nothing contained in this section shall be construed to prohibit any corporation organized under KRS Chapters 271B and 273 from being organized and chartered for the purposes of establishing, operating and maintaining a foreign trade zone within this state pursuant to KRS 271B.18-060.

(3) As used in this section, "foreign trade zone" means such a zone authorized by 19 U.S.C. sec. 81.

Section 38. KRS 154.335 is amended to read as follows:

The ***cabinet*** [~~commission~~] may enter into any and all contracts in its own name for planning, engineering, promotion, and development, consistent with the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], and may enter into contracts for these purposes with any local port authority authorized by KRS 65.510 to 65.650 or any other public or private organization.

Section 39. KRS 154.340 is amended to read as follows:

The ***cabinet*** [~~commission~~] may disburse any and all funds appropriated by the Legislature for purposes consistent with KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~], any funds received from any state agency, and may apply for, receive, and disburse funds from the federal government, or any other public or private organization or agency for carrying out the purposes of KRS 65.510 to 65.530, 139.483, ***154.315 to 154.340*** [~~154.310 to 154.345~~].

Section 40. KRS 154.360 is amended to read as follows:

(1) There is created ***within the cabinet*** a Kentucky Waterway Marina Development ***Program*** [~~Commission~~]. The ***cabinet*** [~~commission~~] shall study various plans and recommendations that are proposed concerning marina development along Kentucky navigable waterways. Based on these studies, the ***cabinet*** [~~commission~~] shall formulate a comprehensive plan, recommend state and local legislation for the development of marinas, and coordinate the implementation of the plan and legislation. The ***cabinet*** [~~commission~~] may make grants of money to units of local government for the construction or improvement of any marina, if the grants are consistent with the plans, standards, and criteria established by the ***cabinet*** [~~commission~~].

(2) If necessary to further the accomplishment of its purposes, the ***cabinet*** [~~commission~~] may do the following:

(a) Conduct all studies necessary for the performance of its duties;

(b) Publicize, advertise, and distribute reports on its purposes, objectives and findings;

(c) Provide recommendations in matters related to its functions and objectives to political subdivisions in and adjacent to the waterway corridor and to other public and private agencies;

(d) If requested, act as a coordinating agency for programs and activities of other public and private organizations that are related to its objectives;

(e) Acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise; ***and***

(f) Hold, use, improve, maintain, operate, own, manage, or lease, as lessor or lessee, real or personal property, or any interest in that property[~~; and~~

~~(g) Employ an executive director and other persons as necessary to carry out its duties~~].

(3) The ***cabinet*** [~~commission~~] may receive grants and appropriations from federal, state, and local governments, individuals, foundations, and other organizations. The ***cabinet*** [~~commission~~] may enter into agreements or contracts regarding the acceptance or use of these grants and appropriations for the purpose of carrying out its activities under this section [~~and KRS 154.365 to 154.385~~].

(4) [~~The commission may appoint advisory committees, the membership of which may include representatives of municipal parks, county parks, national parks, and riverport authorities.~~

~~(5)~~] The goal for any marina project under this section [~~and KRS 154.365 to 154.385~~] shall be to create employment in the private sector.

Section 41. KRS 154.750 is amended to read as follows:

(1) There is hereby created ***within the Cabinet for Economic Development,*** a council which shall be known as the "Kentucky Export Council." The council shall be composed of nineteen (19) members appointed by the Governor. [~~The council shall be attached to the Cabinet for Economic Development for administrative purposes.~~]

(2) The members of the council shall be residents of the Commonwealth and shall be appointed with a view to promoting and facilitating international exports from the Commonwealth. The council as a whole shall possess the broadest background and understanding of international export trade.

(3) Initial appointments of the members of the council shall be made as follows: six (6) of the members shall be appointed for a term of two (2) years each; six (6) of the members shall be appointed for a term of three (3) years each; six (6) of the members shall be appointed for a term of four (4) years each. Upon expiration of the terms of the initial appointees their successors shall each be appointed for a term of four (4) years. If a vacancy occurs, the Governor shall appoint a successor for the remainder of the unexpired term. The council shall be nonpartisan and shall be appointed without reference to party affiliation. The members of the council shall serve without compensation. [~~It is recommended that the Governor designate the secretary of the Commerce Cabinet as chairman of the council.~~] Prior to the first meeting of the council in each fiscal year, the ***council*** [~~Governor~~] shall ***elect from among its membership a chairman and*** [~~appoint one (1) of the members of the council~~] vice chairman.

(4) The council shall meet quarterly and shall hold special meetings on the call of the chairman. Ten (10) members shall constitute a quorum. The council may adopt such administrative regulations as it may deem necessary to govern its procedures.

SECTION 42. KRS 155.400 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

Sections 42 to 51 of this Act [~~KRS 155.410 to 155.490~~] is known and may be cited as the "Commonwealth Venture Fund Act [~~of 1988~~]."

SECTION 43. KRS 155.410 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The purposes of ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~], shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] shall be used by that business to leverage additional capital investments from other sources.

(3) Twenty percent (20%) of the funds available for investment under the provisions of ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] shall be for investment in agribusiness or agriculturally related ventures.

SECTION 44. KRS 155.420 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

As used in ***Sections 42 to 51 of this Act*** [~~this chapter~~] unless the context requires otherwise:

(1) "Commonwealth Venture Fund" means the venture capital entity established and managed pursuant to ***Section 45 of this Act*** [~~KRS 155.430~~].

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; and

(d) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business" means a Kentucky based company, employing less than one hundred (100) people, with capitalization limits as follows:

(a) Less than five hundred thousand dollars ($500,000) for a nonmanufacturing firm; or

(b) Less than one million five hundred thousand dollars ($1,500,000) for a manufacturing firm.

(6) "Capitalization" means owners' equity, common stock, preferred stock and retained earnings.

(7) "Agribusiness" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor or an agriculturally related business.

SECTION 45. KRS 155.430 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) (a) To carry out the purposes of ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~], a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4), (5), and (6) of this section, with the name Commonwealth venture fund to provide financing to Kentucky based businesses including, but not limited to, corporations and partnerships.

(b) Until such time as the fund is invested in such small businesses, it may be invested in such obligations and securities as the panel or the managing firm deems prudent.

(2) The financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to five hundred thousand dollars ($500,000).

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) The secretaries of the Kentucky Finance and Administration, ***Economic Development***, [~~Commerce~~] and Revenue Cabinets. The ***Secretary of the Cabinet for Economic Development*** [~~secretary of finance and administration~~] shall act as chairman of the panel and the secretary of ***finance and administration*** [~~commerce~~] shall act as vice chairman;

(b) Five (5) members appointed by the Governor for a term not exceeding four (4) years. The terms of these members shall expire and cease upon the election referred to in paragraph (c);

(c) When the fund has raised a minimum of five million dollars ($5,000,000) in commitments for investment and an initial closing has been held, the investors in the fund shall elect five (5) representatives to the panel for a two (2) year term. At the conclusion of that initial two (2) year term, the investors in the fund at that time shall elect five (5) representatives to the panel to serve terms as shall be established by the panel. The investors shall be entitled to one (1) vote for each one thousand dollars ($1,000) in capital contributed; and

(d) After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member.

(4) The panel shall be staffed by the ***Cabinet for Economic Development*** [~~Finance and Administration and Commerce Cabinets as directed by the secretary of finance and administration acting in his capacity as chairman of the panel~~].

(5) The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] and on prudent financial and investment practices and standards.

(6) Any private financial entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel shall select an applicant to be the managing firm of the Commonwealth venture fund.

(7) The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees, and determine the policy for dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund. The panel shall not authorize any dividends to be paid from income received from investments made pursuant to subsection (1)(b) of this section until such income has been reinvested in a small business for at least five (5) years.

(8) Administrative regulations necessary to carry out the purposes of ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] shall be promulgated and issued by the panel. The guidelines and regulations shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be promulgated.

SECTION 46. KRS 155.440 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) Subject to ***Section 47 of this Act*** [~~KRS 155.450~~], a taxpayer is entitled to a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, 1989, if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years 1988, 1989, 1990 and 1991. The total amount of credit that a taxpayer may receive under ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (0.4).

(2) The amount of credit that a taxpayer may receive under ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] for a particular taxable year shall not exceed the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, 1994. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] for any subsequent tax year.

SECTION 47. KRS 155.450 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The total amount of credits allowed under ***Sections 42 to 51 of this Act*** [~~this chapter~~] shall not exceed, in the aggregate, seven million dollars ($7,000,000) for all taxpayers and all taxable years. If aggregate consideration paid for qualified investments which would otherwise qualify for the credit provided by this chapter exceeds the limits imposed by this section, the credit shall be allowed to taxpayers in the order of the time of the purchase of the qualified investments.

SECTION 48. KRS 155.460 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) A credit to which a taxpayer is entitled under ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~] shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under ***Sections 42 to 51 of this Act*** [~~KRS 155.410 to 155.490~~].

SECTION 49. KRS 155.470 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) To receive the credit provided by ***Section 46 of this Act*** [~~KRS 155.440~~], a taxpayer must:

(a) Claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the Revenue Cabinet; and

(b) File with the cabinet and with the taxpayer's annual state tax return or returns a copy of the form issued by the Commonwealth venture fund as to the qualified investment by the taxpayer.

(2) The managing firm of the Commonwealth venture fund shall complete forms prescribed by the revenue cabinet which shall show as to each qualified investment the following:

(a) The name, address, and employer identification number of the Commonwealth venture fund;

(b) The name, address, and identification number of the taxpayer who purchased the qualified investment; and

(c) The extent of the qualified investment purchased by the taxpayer and the amount paid therefor.

(3) The forms required to be filed with the Revenue Cabinet shall be filed by the managing firm of the Commonwealth venture fund on or before the fifteenth day of the second month following the month in which the qualified investment is purchased. Copies of the forms shall be mailed to the taxpayer by the managing firm of the Commonwealth venture fund and to the panel on or before that same date.

SECTION 50. KRS 155.480 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) If a qualified investment which is the basis for a credit under ***Sections 42 to 51 of this Act*** [~~this chapter~~] is redeemed by the fund or withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the Revenue Cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

SECTION 51. KRS 155.490 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

(1) The reporting requirements from the managing firm to the panel, authorized in ***subsection (7) of Section 45*** [~~KRS 155.430(7)~~] of this Act, shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the Governor and the Legislative Research Commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

Section 52. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the [~~office of the secretary,~~] Cabinet for Economic Development[~~, for administrative purposes~~].

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the commissioner of employment services, the secretary of the Cabinet for Economic Development, the secretary of labor, the chairman of the Council on Higher Education, and the chief state school officer. Thirteen (13) members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the Governor for cause.

(6) The Governor shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The ***secretary of the Cabinet for Economic Development*** [~~board~~] shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 53. KRS 56.870 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and sale of any definitive bonds or temporary bonds, or the securing of any interim financing through bond anticipation notes, loan agreements or by any other means, each agency, authority, board, corporation, cabinet, commission, or any other agency or instrumentality of the Commonwealth shall first obtain approval of any such financing from the General Assembly, sitting in regular or special session. Such approval shall be evidenced by the adoption by the General Assembly of a specific act or the adoption by the General Assembly of the biennial branch budget bill which shall specify the purposes for such financing.

(2) The biennial branch budget bill shall also establish a ceiling for revenue bonds which require a general fund appropriation to retire.

(3) The provisions of subsection (1) of this section shall not be applicable to the financing of any project in any case where the project for which financing is proposed is certified by the Governor, as hereinafter provided, to be of such type as to independently produce revenues sufficient to fully meet debt service***, issuance costs, reserve fund requirements, insurance premiums and any other expenditures necessary for*** [~~on such~~] financing so that no appropriation of state [~~general~~] funds will be required. ***Repayments of revolving funds established with bond issues for which debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with the issuance of bonds is appropriated by the General Assembly shall not be deemed independently produced revenue.*** Such certification shall be made in writing by the secretary of the Finance and Administration Cabinet to the statutory head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission.

SECTION 54. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Prior to the issuance of the revenue bonds or notes, the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all such persons, bond counsel and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

Section 55. KRS 141.347 is amended to read as follows:

State income tax that would otherwise be owed by the corporation to the Commonwealth, except for ***subsection (3)(a) of Section 26 of this Act*** [~~KRS 152.278(3)(a)~~], by an approved company on the income generated or arising from an approved company operation or activity as an economic development project, shall be determined as follows:

(1) A corporation which is an approved company subject to income tax under KRS 141.040 shall compute the income tax due pursuant to KRS 141.010(13) to 141.010(14) including net income from the economic development project, subject to the applicable tax rate on taxable income.

(2) The corporation shall then compute the net income of the approved company as defined in subsection (1)(a) of this section excluding the net income from the economic development project subject to the applicable tax rate on taxable income.

(3) The difference between the tax computed in subsections (1) and (2) of this section equals the income tax to be permitted to be applied as a credit by an approved company toward income tax owed, such credit not to exceed the total debt service under the respective financing agreement.

(4) Net income excluded from taxable income in computing the tax due under subsection (2) of this section shall be determined under a separate accounting method reflecting only the gross income, deductions, expenses, gains and credits allowed under KRS Chapter 141.

(5) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~] and the allowable income tax which an approved company may retain under ***Sections 22 to 28 of this Act*** [~~KRS 152.262 to 152.298~~].

Section 56. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital Projects and Bond Oversight Committee of the Legislative Research Commission before approval by the Finance and Administration Cabinet ***and the Cabinet for Economic Development***, may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;

(2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments or obligations of the governmental agency to be purchased by the authority;

(3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;

(4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;

(5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;

(c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;

(d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;

(e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;

(8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111 and 224A.112:

(a) The aggregate principal amount of the loan; and

(b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (1/4 of 1%), except as provided for in KRS 224A.111 and 224A.112;

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid,with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

Section 57. KRS 224A.112 is amended to read as follows:

(1) The infrastructure revolving fund shall be established in the State Treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies for the construction or acquisition of infrastructure projects when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available when the authority finds that both a hardship and an extreme health hazard exist.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in KRS 224A.111 or for any infrastructure projects on the prioritization schedule prepared by the Department of Local Government.

(6) The Department of Local Government shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund. In establishing its prioritization schedule, the Department of Local Government shall ***consult the Cabinet for Economic Development regarding economic development project criteria, shall give priority to economic development projects recommended by the Cabinet for Economic Development, and shall*** consider the following factors:

(a) Local employment;

(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;

(c) The relationship of the infrastructure project to the governmental agency's economic development;

(d) The reasonableness of the proposed costs;

(e) The probable effectiveness of the infrastructure project as proposed; and

(f) Any other criteria that the department of local government considers advisable.

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

Section 58. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application, and any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by ***or on behalf of*** the Kentucky ***Economic*** Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109 shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission shall be authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and

of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One (1) alternate may be substituted for a member in order to establish a quorum, provided that no business is transacted beyond the scope of authority of an alternate.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 59. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky ***Economic*** Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under ***subsection (14) of Section 2 of this Act*** [~~KRS 154.010(9)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky ***Economic*** Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 60. KRS 12.027 is amended to read as follows:

When the Governor***, the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** or another elected official effects a temporary reorganization under KRS 12.028, ***the Governor, the Kentucky Economic Development Partnership, or the other official*** [~~he~~] shall do so by executive order ***or, in the case of the Kentucky Economic Development Partnership, by resolution*** filed with the Legislative Research Commission and the Secretary of State, ***which*** [~~and he~~] shall clearly designate the order ***or resolution*** as one relating to reorganization. The Secretary of State shall keep a copy of all executive orders relating to organization.

Section 61. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor***, the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor***, the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by ***the Kentucky Economic Development Partnership as created in Section 3 of this Act, or*** another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within sixty (60) days after it is filed with the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.

(5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor***, the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor***, the Kentucky Economic Development Partnership as created in Section 3 of this Act,*** and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.

(6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 62. KRS 65.910 is amended to read as follows:

(1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services, and all expenditures as set forth in this section.

(2) Demographic information shall include:

(a) The name of the unit of local government;

(b) The county in which the city or special district is located;

(c) The classification of the city;

(d) The population of the unit of local government;

(e) The form of government of the city; and

(f) The area development district in which the unit of local government is located.

(3) Bonded indebtedness and debt service information shall include:

(a) The name of each project listed individually;

(b) The type of bond issue used for each project;

(c) The bonded indebtedness of each project;

(d) The debt service requirements of each project; and

(e) The specific source of debt service funds, whether local government appropriations or use of non-government funds.

(4) Lease-purchase agreement information shall include:

(a) Purpose of the agreement;

(b) Identity of the lessor;

(c) Principal amount of the agreement;

(d) Interest rate or rates for the agreement;

(e) Date the local government entered into agreement;

(f) Length of term of agreement;

(g) Current annual debt service requirements for agreement; and

(h) A list of and the purpose of any short-term renewal bank notes.

(5) Tax rate and revenue information shall include:

(a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;

(b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, tangible and intangible personal property, and motor vehicles; and

(c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:

1. Occupational license tax on persons;

2. Occupational license tax on business net profits, gross receipts, or a flat rate;

3. Business inventory tax;

4. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;

5. Transient room tax;

6. Restaurant tax;

7. Bank shares;

8. Tobacco in storage;

9. Delinquent collections; and

10. Special purpose and other taxes.

(6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:

(a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;

(b) Required sticker fees on automobiles and trucks;

(c) Motor vehicles fees on taxicabs, truck-tractors, semitrailers and trailers;

(d) Coin-operated machines;

(e) Cable television;

(f) Building, electrical, and plumbing permits;

(g) Zoning permits and development impact fees;

(h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;

(i) Licensing of electricians and electrical contractors;

(j) Unloading fees;

(k) Public service fees for fire protection, police protection;

(l) Ambulance service franchise fees and ambulance run fees;

(m) Animal license fees; and

(n) Any other source of license, permit or fee.

If varying rates or fees are charged based upon classification, volume, value or other criteria, the local government shall submit a fee chart with the report form.

(7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:

(a) Waterworks;

(b) Sewage treatment;

(c) Electric light, heat, and power;

(d) Gas;

(e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;

(f) Transit authority; and

(g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

(8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:

(a) Kentucky Law Enforcement Foundation Program fund;

(b) Professional Firefighters Foundation Program fund;

(c) Community development block grant funds;

(d) County or municipal road aid;

(e) Local government economic assistance funds;

(f) Net court revenues;

(g) Kentucky Infrastructure Authority funds;

(h) Economic development bonds;

(i) Kentucky ***Economic*** Development Finance Authority funds;

(j) Environmental Protection Agency funds;

(k) County or city transfers; and

(l) Any other source of state or federal funds.

(9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:

(a) Parking meter receipts;

(b) Parking facility receipts;

(c) Parking violation fines;

(d) Charges for impounded vehicles;

(e) Sale of abandoned vehicles;

(f) Delinquent tax bills;

(g) Fines and forfeitures;

(h) Penalties and interest;

(i) Franchise payments for governmental services bid out to the private sector;

(j) Golf course receipts;

(k) Parks and recreation;

(l) Proceeds from sale of seized and forfeited property;

(m) Rent;

(n) Interest from investments and dividends; and

(o) Any other source of revenue or charge for service.

(10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Department of Local Government shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

Section 63. KRS 103.2101 is amended to read as follows:

(1) In addition to the duties specified in KRS 103.286, it shall be the duty of the Kentucky Private Activity Bond Allocation Committee to review only those projects authorized by paragraphs (k), (l), (m), and (n) of KRS 103.200(1), and only off-street parking facilities, cable television, and mass communication facilities as authorized by paragraph (b) of KRS 103.200(1), whether by cities, counties, urban-county governments, air boards, riverport authorities, or the Kentucky ***Economic*** [~~Industrial~~] Development Finance Authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(2) If the committee finds that the project does not meet all of the above listed criteria, it shall deny approval of the project until the objections thereto have been met.

(3) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(4) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(5) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (1) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until the project has been approved by the committee.

Section 64. KRS 194.150 is amended to read as follows:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Finance and Administration Cabinet, or the Superintendent of Public Instruction, or the secretary of the Justice Cabinet, or the secretary for natural resources and environmental protection, or the secretary of the Cabinet for Economic Development, or the executive director of the Council on Higher Education, or the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet[~~, or the commissioner of the Department for Existing Business and Industry,~~] or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 65. KRS 151B.215 is amended to read as follows:

(1) The Kentucky Occupational Information Coordinating Committee (KOICC) is hereby created and shall be attached to the Cabinet for Workforce Development.

(2) The committee shall coördinate the development, gathering, aggregation, analysis, dissemination, and application of occupational, labor market, educational training, and career information for the purpose of planning and administering occupational, career, employment training, and economic development efforts and for its use in decision making by counselors, students, the unemployed, and others. The committee shall facilitate the integration of occupational, labor market, and educational training opportunities information into the program planning process. The committee shall use this information for the enhancement of economic development endeavors and the Kentucky Career Information System.

(3) The committee shall do all things necessary to comply with Public Law No. 98-524, the Carl D. Perkins Vocational Education Act; Public Law No. 97-300, the Job Training Partnership Act; and other related public laws which mandate the establishment of state occupational information coordinating committees, state occupational information systems, and state career information systems, including the filing of required reports and annual plans.

(4) The objectives of the committee shall include, but shall not be limited to the following:

(a) To coordinate, and evaluate information which will be used to develop a comprehensive statewide policy relating to all job training, skills development, and related education programs funded or administered by any agency of the Commonwealth. This statewide policy shall be published and distributed by the committee;

(b) To promote communication, cooperation, and coordination between producers and users of data and information relating to education and training, employment, and economic development;

(c) To work toward providing one (1) commonly-accepted data and information base, based on standardized terminologies and estimating procedures, which can be utilized by all related organizations in meeting the program planning and counseling needs of users;

(d) To develop, implement, and operate an occupational information system for use by planners and administrators of educational training programs and economic development efforts;

(e) To develop, implement, and operate a Kentucky Career Information System for use by counselors, students, the unemployed, and others in the career decision making process;

(f) To provide information and training to user groups on new programs and resources which are available for utilization in the enhancement of common endeavors;

(g) To prepare, publish, and distribute, with or without charge as the committee may determine, technical studies, reports, bulletins, and other materials as it deems appropriate; and

(h) To collect, analyze, and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment needs, programs of skills training and education consistent therewith, special occupational licensure requirements, wage data by occupation, and any other relevant information.

(5) The Kentucky Occupational Information Coordinating Committee (KOICC) shall be composed of the following:

(a) The secretary of the Cabinet for Workforce Development, who shall serve as chairman;

(b) The commissioner of the Department for Employment Services, Cabinet for Human Resources, who shall serve as vice chairman;

(c) The ***secretary of the Cabinet for Economic Development, or his designee*** [~~commissioner of the Department for Existing Business and Industry, Cabinet for Economic Development~~];

(d) The executive director of the Bluegrass State Skills Corporation;

(e) The executive director of the Governor's Council on Vocational Education;

(f) The office head for the Office of Vocational Rehabilitation;

(g) The office head for the Office of Vocational Education;

(h) The office head for the Office of Adult Education;

(i) The chancellor of the University of Kentucky Community College System;

(j) A representative from the Kentucky Council on Higher Education;

(k) A representative from the Kentucky Chamber of Commerce; and

(l) Five (5) additional representatives from the private sector representing employers, employees, and interested parties who shall be appointed by and serve at the pleasure of the Governor.

(6) Committee members shall receive no compensation, with the exception of those members serving by virtue of public office, but members shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(7) The committee shall meet as often as necessary, but at least quarterly in the months of January, April, July, and October, to effectuate its purposes. Meetings shall be called by the chairman and notice of meetings shall be either in writing or other acceptable means of communications. For the purpose of conducting business, a majority of the committee shall constitute a quorum.

(8) The committee shall be attached to the Cabinet for Workforce Development.

(9) The committee may create subcommittees as needed to carry out the purposes of the full committee.

Section 66. KRS 151.040 is amended to read as follows:

The Kentucky Geological Survey shall report periodically on its findings to the Governor and General Assembly and such reports shall be available to the public. It shall at all times furnish cooperative services to the ***Cabinet for Economic Development*** [~~Department of Existing Business and Industry~~] and such other state agencies as may request its services, and make available to those agencies such information and data as are at the disposal of the survey. The survey may issue reports, maps, and other publications for sale at a price prescribed by the governing authorities of the University of Kentucky.

Section 67. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky ***Economic*** Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one time, the name of the lessee corporation, and the fact that

the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285 inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement or other financing agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection.

(2) Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county" and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky ***Economic*** Development Finance Authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky ***Economic*** Development Finance Authority, any air board and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 68. KRS 103.245 is amended to read as follows:

(1) For purposes of the exercise of the power of eminent domain, "building" or "industrial building" shall be deemed to include only the following: coal conversion facilities, hospitals, primary medical centers, health care clinics, convention centers, or any industrial building as defined in KRS 103.200, which is to be located in a blighted area as defined in KRS 99.010(1)(a), or any of these things, to be rented or leased to a domestic or foreign corporation by the Kentucky ***Economic*** Development Finance Authority, the city or the county by which it is acquired.

(2) An industrial building within the meaning of subsection (1) of this section may be acquired by a city or a county by purchase, gift, or condemnation. Whenever a city or a county shall determine that land or other property, right of way, or easement over or through any property is needed by such city or county, as the case may be, to accomplish the purposes of KRS 103.210 to 103.285, inclusive, it may by ordinance or resolution authorize the purchase or condemnation, in the name of such city or county, of said land or other property, or right of way or easement necessary for such purposes, and may proceed to condemn and acquire such property in the manner set forth in the Eminent Domain Act of Kentucky. All property, rights of way and easements already held by its owner or lessee for industrial development shall be exempt from condemnation under this section.

SECTION 69. KRS 152.080 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 154 AND AMENDED TO READ AS FOLLOWS:

The Department ***of Existing Business and Industry***, as it deems necessary and advisable, is authorized to:

(1) Consult with agencies of the state, federal and local government in order to coordinate development programs and plans and to articulate agriculture, industry, and commerce in the light of the needs of particular localities;

(2) Make studies of land utilization so as to determine areas suitable for industrial and commercial development;

(3) Make studies and projections and publish information relating to the economic development of the Commonwealth and make appropriate recommendations to the ***board*** [~~Governor~~] and the General Assembly;

(4) Establish and maintain development offices in out-of-state centers of industrial and commercial management;

(5) Place advertising in appropriate media promoting Kentucky's resources and locational advantages for industrial and commercial enterprises.

Section 70. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky and by the rules of the Senate, the duties of the Lieutenant Governor shall be as follows:

(a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;

(b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;

(c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;

(d) To serve as vice chairman of the County Debt Commission as provided in KRS 66.300;

(e) To appoint three (3) members of the Board of Ethics of the Kentucky General Assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;

(g) [~~To serve as a member of the Kentucky Port and River Development Authority pursuant to KRS 154.320;~~

~~(h)~~] To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030;

(h)[~~(i)~~] To serve as a member of the Appalachian Development Council as provided in KRS 154.600;

(i)[~~(j)~~] To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

1. The Southern Growth Policies Board as prescribed by KRS 147.585;
2. The Breaks Interstate Park Commission as provided in KRS 148.225;
3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 71. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in ***subsection (2) of Section 28 of this Act*** [~~KRS 152.282(2)~~] shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

Section 72. KRS 141.066 is amended to read as follows:

(1) Individuals whose adjusted gross income does not exceed the amounts set out in subsection (3) of this section, shall be eligible for a nonrefundable "low income" tax credit. The credit shall be deducted from the amount of the tax liability calculated under KRS 141.020 after deducting any credits claimed by the taxpayer under the provisions of KRS 141.065, 141.070, and ***Section 46 of this Act*** [~~155.440~~].

(2) For a husband and wife living together, whether filing jointly or separately, the "low income" tax credit shall be computed on the basis of their combined adjusted gross income and shall be deductible from their combined tax liability.

(3) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over $5,000	100%
over $ 5,000 but not over $10,000	50%
over $10,000 but not over $15,000	25%
over $15,000 but not over $20,000	15%
over $20,000 but not over $25,000	5%
over $25,000	-0-

Section 73. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of ***eight (8)*** [~~seven (7)~~] members. The secretaries of the Economic Development, Finance and Administration, and Natural Resources and Environmental Protection Cabinets, ***the vice chairman of the Kentucky Economic Development Partnership,*** and the commissioner of the Department of Local Government shall serve as ex officio members of the authority. On or before August 1, 1992, the Governor shall additionally appoint three (3) at large members who shall serve as follows: one (1) shall serve a term ending June 30, 1996; one (1) shall serve a term ending June 30, 1995; and one (1) shall serve a term ending June 30, 1994. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) ***Five (5)*** [~~Four (4)~~] members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. The secretary of the Finance and Administration Cabinet shall serve as chairperson. The members of the authority shall choose from their ranks a vice-chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority.

(4) The authority shall, for administrative purposes, be attached to the Finance and Administration Cabinet, and shall establish and maintain offices in premises which shall be provided for that purpose by the Finance and Administration Cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

SECTION 74. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

Infrastructure projects endorsed and recommended by the Cabinet for Economic Development shall be given funding consideration under the provisions of this chapter.

SECTION 75. A NEW SECTION OF KRS CHAPTER 45.3511 TO 45.359 IS CREATED TO READ AS FOLLOWS:

Under the economic development funding portion of the Commonwealth's Community Development Block Grant program, economic development projects recommended for funding by the Cabinet for Economic Development shall be given consideration.

Section 76. As of the effective date of this Act, the programs, responsibilities, functions, real property, funds, personnel, records, and obligations of the Commonwealth venture fund as established in KRS 155.430, and currently administered by the Finance and Administrative Cabinet shall be transferred to the Cabinet for Economic Development for administration and shall be under its authority and control.

Section 77. The following KRS sections are repealed:

152.010 Definitions.

152.264 Kentucky Rural Economic Development Authority.

152.268 Administrative staff.

152.270 Immunity from personal liability of officers and directors.

152.272 Acceptance and expenditure of funds.

152.274 Conflict of interest prohibited.

152.284 Revenue bonds.

152.286 Revenue bonds not to be deemed debt of Commonwealth — Payment of expenses of authority.

152.288 Security for bonds — Bonds considered a permitted investment.

152.290 Effect of pledge of revenues or assets of authority.

152.292 Authority's money deemed to be trust funds.

152.294 Enforcement of rights by bond holders or trustees.

152.296 Negotiability of bonds and interest coupons.

152.298 Refunding obligations.

154.010 Definitions.

154.020 Kentucky Development Finance Authority — Members — Compensation — Quorum.

154.022 Cooperation between agencies mandated.

154.025 Administration by authority — Executive director.

154.035 Executive committee — Powers.

154.041 Powers of authority.

154.310 Definitions.

154.320 Kentucky Port and River Development Commission — Members — Terms — Officers — Quorum — Compensation — Removal.

154.321 Districts from which members of commission selected.

154.325 Executive director.

154.345 Citation of law.

154.365 Membership — Quorum — Compensation.

154.370 Districts — Appointments.

154.375 Executive director.

154.380 Power to contract.

154.385 Receipt and disbursement of funds.

154.580 Appropriations and finances transferred to Kentucky Development Finance Authority.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bills have been posted for passage in the Regular Orders of the Day for February 26, 1992: **HB 307, HB 371.**

The Committee on Rules reported that **HB 97, HB 408, SB 15, HB 47, HB 126, HB 199, HB 323, HB 465, HB 487, HJR 23, HJR 73, HJR 94, SJR 7** and **HB 89** have been posted for passage in the Orders of the Day for February 26, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 410, SB 50**

Banking and Insurance: **HB 283**

Floor Amendments

Floor Amendment No. 1 to **HB 457**, by Representative Ackerson:

Amend printed copy of **HB 457** on page 3, after line 18, by adding a new section, to read as follows:

Section 2. KRS 341.260 is amended to read as follows:

(1) Contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this chapter. Such contributions shall be based upon wages paid during such calendar year for covered employment. Such contributions shall become due and be paid at the offices of the department in Frankfort by each subject employer to the department for the fund in accordance with such regulations as the secretary prescribes, and shall not be deducted in whole or in part from the wages of workers in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent ($0.005) or more, in which case it shall be increased to one cent ($0.01).

(2) Any contractor, who is or becomes a subject employer under the provisions of this chapter, who contracts with any subcontractor, who also is or becomes a subject employer under the provisions of this chapter, shall withhold sufficient moneys on said contract to guarantee that all contributions, penalties, and interest are paid upon completion of said contract, or shall require of said subcontractor a good and sufficient bond guaranteeing payment of all contributions, penalties and interest due, or to become due with respect to wages paid for employment on said contract. Failure to comply with the provisions of this section shall render said contractor directly liable for such contributions, penalties and interest due from said subcontractor and the wages paid by said subcontractor shall be deemed wages paid by the said contractor with respect to the same periods for all purposes under this chapter, and liens of the same nature are attachable and enforceable in the same manner as liens under KRS 341.310 and 341.315. A person, employing unit, or entity that enters into a verbal or written agreement with another, or between which there exists an implied contract based upon the circumstances, conduct, or acts or relations of the parties:

(a) To have work performed consisting of the removal, excavation or drilling of soil, rock or mineral, or the cutting or removal of timber from land; or

(b) To have work performed of a kind which is a customary or a recurrent part of the work of the trade, business, occupation or profession of such person or entity, shall for the purposes of this subsection be deemed a contractor, and such other person or entity a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

(3) Businesses engaged in waterproofing of residences and commercial properties, in regard to their Standard Industrial Classification (SIC) for purposes of unemployment insurance tax rate determination, shall be assigned the code 4959, in industry group 495, sanitary services."; and by renumbering subsequent sections accordingly.

Floor Amendment No. 2 to the Committee Substitute to **HB 161**, by Representative Hancock:

Amend printed copy of **HB 161/HCS** on page 3, between lines 10 and 11, insert the following:

"SECTION 6. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

Any federal funds the Commonwealth of Kentucky may lose due the enactment of this bill, shall be deducted from the road funds allocated to the highway district where the improper billboard is located."; and

On page 3, line 11, renumber "Section 6" as "Section 7"".

Orders of the Day

HB 64, with Committee Amendment and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Committee Amendment No. 1 to **HB 64**. Agreed.

Representative Palumbo moved that **HB 64**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See February 24, 1992 roll call on **HB 64** - Appendix.)

HB 64, as amended, was passed.

Representative Palumbo moved the adoption of the Committee Title Amendment to **HB 64**. Agreed; and the title was agreed to.

Representative Palumbo moved that the vote by which **HB 64**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 466**, by Representative B. Smith:

Amend printed copy of **HB 466** on page 3, line 22 after "***purchaser***" by inserting:

" ***or owners of property, both former and future, who have purchased property without knowledge of the presence of contaminating or polluting substances on the land, and heirs and beneficiaries of property upon which there is located contaminating or polluting substances which they were unaware of, or did not, directly or indirectly, cause to be placed on the property***"; and

On page 5, lines 2 and 3 by deleting "***or subsequent purchaser***"; and

On page 7, line 1 delete "" and insert in lieu thereof "***or subsequent purchaser***"; and

On page 7, line 3 after "***institution***" by inserting "***or subsequent purchaser***".

Orders of the Day (Continued)

HB 84, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **HB 84**. Agreed.

Representative Cyrus moved that **HB 84**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 3. (See February 24, 1992 roll call on **HB 84** - Appendix.)

HB 84, by way of Committee Substitute, was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 84**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 327 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 327** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See February 24, 1992 roll call on **HB 327** - Appendix.)

HB 327 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 327** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 390 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 390** be passed.

On the roll call the vote was: Yeas 74, Nays 10. (See February 24, 1992 roll call on **HB 390** - Appendix.)

HB 390 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 390** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 458 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **HB 458** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 24, 1992 roll call on **HB 458** - Appendix.)

HB 458 was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 458** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 480 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 480** be passed.

On the roll call the vote was: Yeas 74, Nays 10. (See February 24, 1992 roll call on **HB 480** - Appendix.)

HB 480 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 480** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 488 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 488** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 24, 1992 roll call on **HB 488** - Appendix.)

HB 488 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 488** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 357** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:34 p.m.)

HB 357 was delivered to the Senate and signed by the President. Delivered to the Governor on February 24, 1992 at 4:45 p.m.

Orders of the Day (Continued)

HB 505 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 505** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 24, 1992 roll call on **HB 505** - Appendix.)

HB 505 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 505** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 22, with Committee Substitute, Committee Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HCR 22**. Agreed.

Representative Burch moved that **HCR 22**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 41, Nays 53. (See February 24, 1992 roll call on **HCR 22** - Appendix.)

HCR 22, by way of Committee Substitute, was rejected.

Representative Stumbo moved that the vote by which **HCR 22**, by way of Committee Substitute, was rejected be reconsidered and said motion be placed on the table. Agreed.

SB 95 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 95** be passed.

On the roll call the vote was: Yeas 82, Nays 6. (See February 24, 1992 roll call on **SB 95** - Appendix.)

SB 95 was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 95** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 211**. (Time: 5:10 p.m.)

Motions, Petitions and Communications

Representative Stumbo moved that **HB 329** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 643, by Representatives Lile and Casebier: AN ACT relating to hazardous waste.

HB 644, by Representatives Crupper, Rapier and Gee: AN ACT relating to retirement.

HB 645, by Representative Farrow: AN ACT relating to military schools.

HB 646, by Representative LeMaster: AN ACT relating to confidentiality of victim assistance files.

HB 647, by Representatives Brown and Ark: AN ACT relating to environmental protection.

HB 648, by Representative Donnermeyer: AN ACT relating to hotel in-room sales of alcoholic beverages.

HB 649, by Representative Coleman: AN ACT relating to bankruptcy.

HB 650, by Representative McElroy: AN ACT relating to establishing an Indian reservation with the ability to operate a housing authority.

HB 651, by Representative Jones: AN ACT relating to crimes and punishments.

HB 652, by Representative Morris: AN ACT relating to relations between the Commonwealth of Kentucky and the United States military forces stationed therein.

HB 653, by Representatives Morris and Bruce: AN ACT relating to railroads, making an appropriation therefor, and declaring an emergency.

HB 654, by Representative R. Smith: AN ACT relating to environmental protection.

HB 655, by Representative Cyrus: AN ACT relating to collective bargaining.

HR 123, by Representative Jones: A RESOLUTION honoring W. B. (Bill) Sanders for his tireless devotion to the working men and women of Kentucky and adjourning in his honor.

HJR 124, by Representative Rapier: A JOINT RESOLUTION directing the Secretary of Transportation to name the bridge over Beech Fork River on Kentucky Highway 49 in Nelson County the Avon Fogle Bridge.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Transportation: **HB 141**

Motions, Petitions and Communications (Continued)

Representative J. Harper moved the adoption of the following Legislative Citation No. 31. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends NORTH BULLITT HIGH SCHOOL'S STATE CLOSE UP PROGRAM participation in this program demonstrates a deep interest in and appreciation of the legislative process and the goals accomplished through constituent participation in his process.

This prestigious body joins Representative John Harper in commending the political science students of North Bullitt High School, along with teachers David Bock, Karen Norton and Scott Morrison for your efforts. We extend best wishes for continued success in your academic and political activities.

Representative J. Harper moved the adoption of the following Legislative Citation No. 32. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends BULLITT CENTRAL HIGH SCHOOL'S STATE CLOSE UP PROGRAM participation in this program demonstrates a deep interest in and appreciation of the legislative process and the goals accomplished through constituent participation in this process.

This prestigious body joins Representative John Harper in commending the political science students of Bullitt Central High School, along with teachers Bob Carpenter and Jack Thompson for your efforts. We extend best wishes for continued success in your academic and political activities.

The following members requested that their names be added as co-sponsor to Bills: **HB 84**, Representatives Ackerson, Ravenscraft; **HB 113, HB 327, HB 332, HB 354, HB 365**, Representative Ravenscraft; **HB 488**, Representative Donnermeyer; **HB 567**, Representative Bryant; **HB 598**, Representatives Ackerson, Bronger, Burch, P. Clark, Deskins, Farley, Little, Morris, Ravenscraft, Walker.

The following member requested that his name be withdrawn as co-sponsor of a Bill: **HB 431**, Representative Reinhardt.

Announcements

The following meeting was announced:

Agriculture and Small Business, 9:00 a.m., February 25, 1992, Room 129.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 25, 1992.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Maggard, McElroy, Moberly, Morris, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Hatcher, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 25, 1992

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Fuller, Stamping Ground Baptist Church, Stamping Ground.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 24, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 89**, by Representative Mullinix:

Amend printed copy of **HB 89/HCS2** on page 9, line 11, before the period and after "***list***" insert, "***and at least one (1) appointment being chosen from each Congressional district***".

Floor Amendment No. 1 to the Committee Substitute to **HB 299**, by Representative Overstreet:

Amend printed copy of **HB 299/HCS** on page 4, below line 14, to add:

Section 2. This Act shall be known as the Jack McFadden Act.

Introduction of Bills and Resolutions

HB 656, by Representative Adkins: AN ACT relating to revenue and taxation.

HB 657, by Representatives Noe and T. Smith: AN ACT relating to higher education athletic scholarships.

HB 658, by Representatives Richardson, Little, Pritchett and Curd: AN ACT relating to overdimension permits.

Senate Message

Announcing passage of **SB 63**, **SB 117**, **SB 170**, **SB 172**, **SB 189**, **SB 191**, **SJR 67**, **HB 157**, with Senate Amendment, **HB 116**, **HB 148**, **HB 234** and **HB 265**. (Time: 2:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 642, HB 644, HB 653**

Banking and Insurance: **HB 649**

Business Organizations and Professions: **HB 641, HB 648, SB 119**

Education: **HB 645**

Health and Welfare: **SB 211**

Judiciary: **HB 651, HB 646, SB 116**

Labor and Industry: **HB 655**

Natural Resources and Environmental Protection: **HB 643, HB 647, HB 654**

State Government: **HB 650, HB 652**

Transportation: **HJR 124**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Education: **HB 530**

The Clerk announced that the following Bill has been withdrawn for Committee consideration:

Health and Welfare: **HB 528**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 541**, **HB 547**, **HB 559** and **HCR 78** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 541, AN ACT relating to seeds and seedlings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.040 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. [~~Provided, that~~] The director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; and

(g) For each named agricultural seed*:*[~~;~~]

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated;

4. The calendar month and year in which the germination test was completed; and

5. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky Agricultural Experiment Station shall be accepted in lieu of the written or printed tag or label required herein.

(3) ***No*** [~~It shall be unlawful to sell or offer for sale in Kentucky~~] tobacco seed for seeding purposes ***shall be sold or offered for sale in Kentucky*** unless the seed has been certified by the Kentucky Seed Improvement Association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky Seed Improvement Association, except as provided in KRS 250.030.

(4) No tobacco seedlings shall be sold or offered for sale in Kentucky unless the seedlings have been certified by the Kentucky Seed Improvement Association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky Seed Improvement Association.

HB 547, AN ACT relating to poultry carcasses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.160 is amended to read as follows:

(1) All carcasses of domestic animals which have died or which have been destroyed on account of any disease, except those destroyed on account of tuberculosis and slaughtered under the supervision of the state veterinarian or other representative of the board, shall be disposed of by:

(a) Complete cremation of the entire carcass and all of its parts and products;

(b) Boiling the carcass and all of its parts and products in water or heating it with steam at a temperature above boiling, continuously for two (2) hours or more; or

(c) Burying the carcass and all of its parts and products in the earth at a point which is never covered with the overflow of ponds or streams and which is not less than one hundred (100) feet distant from any watercourse, well, spring, public highway, residence or stable. The carcass shall be placed in an opening in the earth at least four (4) feet deep, the abdominal and thoracic cavities opened wide their entire length with a sharp instrument, and the entire carcass covered with two (2) inches of quicklime and at least three (3) feet of earth.

(2) The owner shall dispose of the carcass of a domestic animal, as provided in subsection (1), within forty-eight (48) hours after the carcass is found.

(3) The composting of poultry carcasses is exempt from this section if the composting complies with state and local solid waste composting requirements.

HB 559, AN ACT relating to the livestock fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.275 is amended to read as follows:

(1) Any owner or keeper of a dog which has killed or injured livestock or poultry or which has bitten such livestock or poultry so severely as to necessitate its destruction, or injured or damaged any person or property, shall be liable to the owner of ***the*** [~~such~~] livestock or poultry, or person in a civil action for all damages and costs, or to the Commonwealth.

(2) Whenever any person sustains any loss or damage to any livestock or poultry by dogs, or any livestock or poultry of any person is necessarily destroyed because of having been bitten by a dog, except when ***the*** [~~such~~] loss, destruction or damage shall have been caused by a dog harbored by the owner of ***the*** [~~such~~] livestock or poultry, ***the*** [~~such~~] person or his agent or attorney may, within seventy-two (72) hours after the damage is done, complain to [~~a duly authorized agent of~~] the department. ***The*** [~~Such~~] complaint shall be in writing, shall be signed by the person making ***the*** [~~such~~] complaint, and shall state when, where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of ***the*** [~~such~~] complaint, [~~the agent of~~] the department shall at once examine the place where the alleged loss or damage was sustained and the livestock or poultry injured or killed[~~, and shall examine under oath or affirmation, any witnesses called before him~~]. After making diligent inquiry in relation to ***the*** [~~such~~] claim, ***the department*** [~~such agent, acting as appraiser,~~] shall ***within fourteen (14) days of receipt of the written complaint*** determine whether any damage has been sustained and the amount thereof and, if possible, who was the owner of the dog or dogs by which ***the*** [~~such~~] damage was done. [~~If the owner does not agree as to the amount of damage allowed by the appraiser, the owner and appraiser may appoint a disinterested citizen to assist in determining the amount of damages sustained. For such services, the said disinterested citizen shall receive two dollars ($2.00) and mileage at seven cents (7) per mile for the distance traveled, which shall be paid by the owner and considered as part of the costs in such claim.~~]

(3) In addition to the claims for damages provided in subsection (2) of this section, whenever any person sustains any loss or damage to his or her person or property as a result of being bitten by a dog, ***the*** [~~such~~] person ***may*** [~~shall~~] make a complaint in writing to [~~a duly authorized agent of~~] the department stating when,

where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of ***the*** [~~such~~] complaint ***the department*** [~~said agent~~] shall ***at once*** investigate and ascertain the extent of the claim ***within fourteen (14) days of receipt of the written complaint***[~~, and if approved, make an appraisal of the damages. If any person sustaining a loss does not agree to amount of damages allowed by the appraiser, the person making the claim and the appraiser, may appoint a disinterested person to assist in determining the amount of damages sustained~~]. No payment made out of the livestock fund for claims under this ***subsection*** [~~section~~] shall exceed two hundred fifty dollars ($250), and no payment shall be made, except under subsection (4) of this section, until the claimant shall certify that no payment was made by the owner of the dog or dogs doing the injury.

(4) Whenever any person sustains any damage to his person or loss or damage to livestock, poultry or other property caused by a coyote, the person may file a complaint as provided in subsections (2) and (3) of this section and KRS 258.285.

Section 2. KRS 258.285 is amended to read as follows:

(1) Upon receipt [~~by the department~~] of the ***written complaint mentioned in KRS 258.275*** [~~appraisal report~~], the Commissioner, if he approves the ***complaint*** [~~report~~], shall certify the amount thereof ***within seven (7) days***[~~, together with the costs of the proceeding,~~] to the secretary of the Finance and Administration Cabinet who shall draw a warrant in the amount thereof on the State Treasurer payable out of the livestock fund. If the Commissioner does not approve the ***amount of the complaint*** [~~appraisal report~~], he shall ascertain the amount of damage sustained ***and certify that amount within seven (7) days of the receipt of the written complaint to the secretary of the Finance and Administration Cabinet.***

(2) The Commonwealth shall succeed to all rights and interests of the owner of livestock or poultry which have been killed or injured by dogs or coyotes to the extent of any payment made out of the livestock fund.

HCR 78, A CONCURRENT RESOLUTION supporting the Governor's efforts to seek designation for Kentucky as one of five states selected by the U.S. Secretary of Agriculture under Title XXIII of the federal 1990 Farm Bill.

WHEREAS, the rural areas of the Commonwealth can significantly benefit under the Subtitle B provisions of the federal 1990 Farm Bill, which relate to economic development assistance, job growth, community infrastructure and facilities, and the best use of the natural resources within rural areas; and

WHEREAS, it is recognized that by working in partnership with local government and those responsible business interests of the community that a more efficient use of funds and long-range, action-oriented planning can occur; and

WHEREAS, the opportunities for improving the economic potential of rural areas primarily dependent upon agriculture are greatly influenced by programs secured by the Commonwealth and directed toward specific issues of regional importance; and

WHEREAS, the provisions of Title XXIII are compatible with and further the intent of the Commonwealth to stimulate economic recovery in the rural areas of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly supports the Governor in seeking a designated status for the Commonwealth under Subtitle B of Title XXIII of the federal 1990 Farm Bill.

Section 2. That the state Department of Agriculture and the Cabinet for Economic Development assist in the implementation of this designation.

Section 3. That the Clerk of the House of Representatives be directed to send a copy of this resolution to Kentucky's Congressional Delegation, Kentucky Farm Bureau Federation, and the U.S.D.A. Resource Conservation and Development Coordinator for Kentucky.

The Committee on Banking and Insurance reported **HB 112**, with Committee Substitute attached thereto, **HB 162**, **HB 295**, **HB 362**, with Committee Amendment attached thereto, **HB 434**, **HB 583**, **SB 66**, **SB 79** and **SB 123**, with Committee Amendment and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may offer and provide at the option of the named insured, basic reparations benefits through managed-care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. The policy option may include conditions and limitations to coverage, including, but not limited to, deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve the conditions and limitations unless a finding is made by the commissioner that the conditions and limitations are unreasonable when compared with benefits provided.

(2) An insurer may offer, and provide at the option of the named insured, deductible and coinsurance arrangements whereby the recipient of care, treatment, services, products, expenses, or accommodations shares in the payment obligation for the care, treatment, services, products, expenses, or accommodations.

(3) No deductible or coinsurance under a policy covered under subsection (1) or (2) of this section shall be applied with respect to care, treatment, services, products, or accommodation provided or expenses incurred by an insured during the first twenty-four (24) hours in which emergency treatment has been provided or until the insured patient's emergency medical condition is stabilized, whichever is longer, or until the insured patient is transferred to a managed care provider in accordance with applicable law.

(4) (a) The optional coverage prescribed in subsections (1) and (2) of this section shall apply only to the named insured, resident spouse, resident relative, and any person operating the described motor vehicle with the permission of the named insured or resident spouse.

(b) As used in this subsection, "resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if temporarily living elsewhere.

(5) It is the intent of the General Assembly that an agreement made under this section be a voluntary agreement between the insured and the insurer, and no insurer shall require an insured to agree to such policy provisions as a condition of providing insurance coverage. Requiring such agreement as a precondition to the provision of insurance shall constitute an unfair insurance practice under KRS 304.12-230.

(6) An insurer offering the coverages authorized in subsections (1) and (2) of this section shall demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan and shall further submit to the commissioner, for preapproval, any disclosure form to be used to record an insured's election for any coverage authorized in subsections (1) and (2) of this section.

The Committee Substitute to **HB 112** is as follows:

HB 112, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer may offer and provide at the option of the named insured, basic reparations benefits and added reparation benefits through managed-care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. The policy option may include conditions and limitations to coverage, including, but not limited to, deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve the conditions and limitations unless a finding is made by the commissioner that the conditions and limitations are unreasonable when compared with benefits provided. The conditions and limitations shall be disclosed in the written agreement as provided in subsection (5) of this section.

(2) An insurer may offer, and provide at the option of the named insured, deductible and coinsurance arrangements whereby the recipient of care, treatment, services, products, expenses, or accommodations shares in the payment obligation for the care, treatment, services, products, expenses, or accommodations.

(3) No deductible or coinsurance under a policy covered under subsection (1) or (2) of this section shall be applied with respect to care, treatment, services, products, or accommodation provided or expenses incurred by an insured during the first twenty-four (24) hours in which emergency treatment has been provided or until the insured patient's emergency medical condition is stabilized, whichever is longer, or until the insured patient is transferred to a managed care provider in accordance with applicable law.

(4) (a) The optional coverage prescribed in subsections (1) and (2) of this section shall apply only to the named insured, resident spouse, and resident relative.

(b) As used in this subsection, "resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if temporarily living elsewhere.

(5) It is the intent of the General Assembly that an agreement made under this section be a voluntary written agreement between the insured and the insurer, and no insurer shall require an insured to agree to such policy provisions as a condition of providing insurance coverage. Requiring such agreement as a precondition to the provision of insurance shall constitute an unfair insurance practice under KRS 304.12-230. The written agreement shall be signed by the named insured and shall provide a full and fair disclosure of the optional coverage prescribed in this section and any conditions and limitations referred to in subsection (1) of this section.

(6) An insurer offering the coverages authorized in subsections (1) and (2) of this section shall demonstrate in rate filings submitted to the commissioner the savings and the discount to the insured under the plan and shall further submit to the commissioner, for preapproval, the disclosure form to be used to record an insured's election for any coverage authorized in subsections (1) and (2) of this section.

HB 162, AN ACT relating to health benefits for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility, ***a person employed by a library district created pursuant to KRS Chapter 173 which has elected to participate in health programs established pursuant to this section,*** and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of

Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing

authorities, members representing school districts from each of the seven Congressional Districts, members representing state government from each of the seven Congressional Districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 2. KRS 18A.228 is amended to read as follows:

For purposes of KRS 18A.228 to 18A.2286, the term "state employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member of any of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the State Board of Education for eligibility*, **a person employed by a library district created pursuant to KRS Chapter 173 which has elected to participate in health programs established pursuant to KRS 18A.2281 to 18A.2286,*** and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board-authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

HB 295, AN ACT relating to health insurance for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) ***The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.***

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10)[~~(9)~~] Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11)[~~(10)~~] The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12)[~~(11)~~] The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional Districts, members representing state government from each of the seven Congressional Districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and

three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to KRS 18A.2281 and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the members application, receive coverage in the self-funded plan created pursuant to KRS 18A.2281 without any limitation for pre-existing conditions.

HB 362, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-085 is amended to read as follows:

(1) Every authorized insurance company shall, within one calendar week following the end of its accounting month, send to the department of vehicle regulation a list of all persons insured by it whose policy was terminated by either cancellation or ***nonrenewal*** [~~non-renewal~~] during ***the*** [~~such~~] accounting month ***and a list of persons who became insured with the company during the month. The lists*** [~~Such list~~] shall include a description of each vehicle insured under such terminating policy.

(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the department of vehicle regulation.

(3) All information sent to the Department of Vehicle Regulation by an insurance company as required by subsection (1) of this section shall be used by the department in the performance of its duties under KRS 186A.040, shall remain confidential and shall be excluded from application of KRS 61.870 to 61.884.

Section 2. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the Department of Information Systems for inclusion in the AVIS data base.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085***, the department shall immediately cross-reference the insured, the insured vehicle, and registration to determine if the insured has insurance in effect. If the department finds that the name of a person whose insurance was cancelled or not renewed is not on a list of new insureds thirty (30) days after notification to the department of cancellation or nonrenewal,*** the department shall immediately notify the insured.

(3) Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have ten (10) days to show proof of insurance to the county clerk ***or shall surrender to the county clerk all license plates of the uninsured vehicle.*** The department shall further inform the insured that if evidence of insurance is not received ***or license plates surrendered*** within ten (10) days the department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304. ***The Department of Vehicle Regulation shall assist the county attorney in all prosecutions for violation of this section.***

(4)[~~(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured,~~] If the insured does not respond to notification set out by subsection ***(3)***[~~(2)~~] of this section***, the Department of Vehicle Regulation shall submit certified copies of its records to the appropriate county attorney that a motor vehicle is not properly insured and advise the cabinet that the insured's license should be suspended pursuant to KRS 186.570. The certified notice from the department shall constitute prima facie evidence of failure to have insurance and shall constitute a violation of the requirement for insurance regardless of the subsequent procurement of insurance.***

(5)[~~(4)~~] If the insured provides proof of insurance to the clerk after notification by the department, appropriate action shall be taken by the ***county clerk*** [~~department~~] to denote a valid insurance policy is in force ***by updating the vehicle owner's insurance record in the automated vehicle information system.***

Section 3. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, whenever the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to maintain liability insurance as required by subtitle 39 of KRS Chapter 304.

(2) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. Such hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the cabinet.

(3) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident.

(4) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(5) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

Section 4. KRS 304.99-060 is amended to read as follows:

The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of this chapter shall:

(1) Be fined not less than ***two*** [~~five~~] hundred dollars ***($200)*** [~~($500)~~] nor more than one thousand dollars ($1,000);

(2) Have the license plates of such vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect; and

(3) For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560.

SECTION 5. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any officer or employee of the Department of Vehicle Regulation who divulges any information submitted by an insurer in accordance with KRS 304.39-085 shall be quilty of a Class A misdemeanor, and shall forfeit his office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service, unless the information was divulged upon order of a court of competent jurisdiction.

The Committee Amendment No. 1 to **HB 362** is as follows:

Amend printed copy of **HB 362** on page 2, line 23 after "clerk" by inserting "***and county attorney***"

On page 2, lines 23 and 24 by deleting "***or shall surrender to the county clerk all license plates of the uninsured vehicle***"

On page 2, line 26 by deleting "***or license plates surrendered***".

HB 434, AN ACT relating to consumer loan companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 288 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 288.530(10) or of any other law, in any extension of credit pursuant to KRS Chapter 288, the licensee may charge and collect the following:

(1) A fee, or premium for insurance, in lieu of perfecting a security interest to the extent that the fee or premium does not exceed the fee payable to public officials for perfecting the security interest; and

(2) A bad check charge of fifteen dollars ($15), or the amount passed on from other financial institutions, whichever is greater, for any check, draft, negotiable order of withdrawal, or like instrument returned or dishonored for any reason by a depository institution, which charge licensee may charge and collect, through regular billing procedures, or otherwise from the borrower; and

(3) A reasonable attorney's fee, in connection with the collection of a loan, actually incurred by the licensee and paid to an attorney who is not an employee of the licensee.

SECTION 2. A NEW SECTION OF KRS CHAPTER 288 IS CREATED TO READ AS FOLLOWS:

No licensee shall be subject to any liability for any act or omission made in conformity with a written notice, opinion, or interpretation issued by the commissioner.

HB 583, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.020 is amended to read as follows:

(1) The commissioner may ***promulgate*** [~~prescribe~~], amend and repeal ***any administrative*** [~~such rules,~~] regulations, forms, and orders as are necessary to interpret and carry out the provisions and intent of this chapter. He shall devise a seal for his department, a description of which, together with an impression thereof and a certificate of approval by the Governor, shall be filed in the office of the Secretary of State. The seal shall be renewed whenever necessary.

(2) The commissioner of financial institutions and his deputies shall be allowed their necessary traveling and other expenses of conducting their office.

(3) The commissioner of financial institutions may ***issue a finding of permissible activities, services, or products to authorize*** [~~prescribe, amend and repeal regulations authorizing~~] banks to engage in any banking activity in which ***the*** [~~such~~] banks could engage were they operating as national banks at the time ***the*** [~~such~~] authority is granted[~~, provided that this subsection shall not apply to activities which are expressly prohibited or limited by the statutes of the Commonwealth~~]. ***Any finding shall be specifically limited to the activity, service, or products contained therein and shall be mailed to all banks. The hearing and appeal procedures of KRS 287.061 and 287.062 shall be applicable to the issuance of a finding.***

(4) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of KRS 287.105 relative to the leasing of motor vehicles, or of KRS 287.180 relative to the establishment of branches.

Section 2. KRS 287.900 is amended to read as follows:

(1) For purposes of this section and KRS 287.905:

(a) "Bank" means any institution organized under this chapter, the banking laws of another state or the National Bank Act, as amended, to do a banking business. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years;

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended (12 U.S.C. Section 1841, et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation; and

(d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all ***federally-insured depository institutions*** [~~banks~~] to their respective supervisory authorities.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than fifteen percent (15%) of the total deposits ***and member accounts*** in ***the offices of*** all ***federally-insured depository institutions*** [~~banks~~] in this state as reported in the most recent year-end reports made by the ***institutions*** [~~banks~~] to their respective supervisory authorities which are available at the time of the acquisition.

(4) (a) During the period expiring five (5) years after July 13, 1984, no individual or company wherever located may, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a bank or bank holding company if as a result ***the*** [~~thereof such~~] individual or company would acquire control of more than three (3) banks in this state during any twelve (12) month period;

(b) Provided, however, a bank holding company wherever located, may acquire control of a bank holding company which has its principal place of business in this state and which controls more than three (3) banks located in this state under conditions approved by the commissioner which would require the following:

1. That an acquisition made under this subsection shall be limited to only one (1) acquisition;

2. That the banks acquired in excess of the three (3) bank per year limitation included in this acquisition shall be counted against future acquisitions during the remaining five (5) year period provided in this subsection; and

3. That the total bank acquisitions by a bank holding company shall not exceed in the aggregate fifteen (15) banks during the five (5) year period provided in this subsection.

(5) The limitations set forth in this section or any other provision of this chapter or any regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

(6) (a) Any bank holding company having its principal place of business in a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section;

(b) From and after two (2) years after July 13, 1984, any bank holding company having its principal place of business in a state other than a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section; and

(c) For the purposes of this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.

(7) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

SB 66, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in subtitle 29), except as stated in subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations (as identified in subtitle 32) except as stated in subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in subtitle 30), except as stated in subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, composed of any number of members, who join together to self insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group and who comply with the following conditions:

(a) Establishment of a professional or public liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or public liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group; and

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

(7) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:

(a) A "qualified organization" means one which is:

1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or

2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or

3. Exempt as a publicly owned or nonprofit, privately-endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and

(b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.

SB 79, AN ACT relating to the Kentucky Center for the Arts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.420 is amended to read as follows:

The Kentucky Center for the Arts Corporation:

(1) Shall supervise construction of the Kentucky Center for the Arts in conjunction with the Finance and Administration Cabinet, and shall provide all management functions for the facility and for any other property acquired or leased pursuant to its powers under this section;

(2) May take, acquire and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease or eminent domain, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in any manner provided by law. In the exercise of its power of eminent domain, it shall proceed in the manner provided in the Eminent Domain Act of Kentucky, KRS 416.540 to 416.680;

(3) May consult or enter into agreements with other segments of the arts and entertainment industry to provide technical, professional, or management support or assistance, consistent with its purpose and mission;

(4) May issue revenue bonds, subject to procedures which shall be established by the Finance and Administration Cabinet, solely payable from the charges, revenues, rentals, and other funds pledged for their payment for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(5) Shall promote the growth and development of the arts, convention trade, tourism and the hotel industry within Jefferson County and the Commonwealth, through utilization of the Kentucky center and activities authorized in this section to enhance these and the public interest;

(6) May adopt administrative regulations, as provided in KRS Chapter 13A, governing the operation, maintenance or use of property under its custody and control;

(7) May levy a surcharge on tickets for all functions held within the center to contribute to operating revenue;

(8) May receive tax revenues from any governmental unit, and financial contributions of local governments, private persons and foundations;

(9) Shall have exclusive control of all exhibitions, performances and concessions in the Center for the Arts. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center, and may sell such property upon ten (10) days' notice to satisfy any indebtedness;

(10) Shall develop in conjunction with local hotels, and the arts and entertainment industry, tourist packages including performance and group plans, and shall participate with local hotels and convention bureaus in attracting non-arts related conferences and conventions;

(11) May establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by the corporation; [~~and~~]

(12) May sue and be sued and maintain and defend legal actions in its corporate name*;*

(13) May, if the corporation elects, be exempt from the provisions of KRS 56.065 to 56.180, and, with the approval of the secretary of the Finance and Administration Cabinet and the Department of Insurance, purchase from the funds allotted to the corporation property insurance for buildings and contents from responsible insurance companies doing business in this state; and

(14) May purchase liability insurance for the protection of the corporation and its employees from liability arising in the operation of the center.

SB 123, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.061 is amended to read as follows:

(1) ***When*** [~~Whenever~~] an application for approval of a corporation or facility provided for by KRS 287.050, 287.180, or 287.185 is made, notice of ***the*** [~~such~~] application shall be published.

(2) Any interested party shall have the opportunity to make written comments on whether the criteria for approval set forth in the particular statutory section have been met. Such party shall have access to all materials supplied by the applicant to the commissioner in connection with the application and all evidence assembled by the commissioner or his agents pertaining to ***the*** [~~said~~] application***, except for personal financial records, which shall be deemed confidential and not subject to public inspection***.

(3) The commissioner may cause a hearing to be held if, in his judgment, ***the*** [~~such~~] hearing is necessary to protect the rights of any party or otherwise advisable under the circumstances. ***In lieu of holding a hearing the commissioner may limit the comments regarding the application to the submission of written briefs by the parties.*** [~~Regardless of~~] Whether or not a hearing is held, the commissioner shall make the determinations required of him by the statutory sections mentioned in subsection (1) by means of a written order which sets forth the bases for his decision.

(4) When no hearing has been held and the commissioner has determined, by written order, that the proposed corporation or facility contemplated by the statutory sections mentioned in subsection (1) of this section should not be approved, he shall afford those parties seeking approval, and them only, a period of twenty (20) days after rendition of the order to request a public hearing. If a hearing is then held, he shall prepare a second written order which makes the particular determinations required by the above-mentioned statutory sections. This second order may contain bases for his determinations that are in addition to or different from those contained in the first order.

(5) Notice of hearings held pursuant to this section shall be given by advertising one (1) time in the newspaper with the largest circulation in the locality where the proposed corporation or facility is to be situated. ***The*** [~~Such~~] advertisement shall state the nature and location of the proposed corporation or facility, as well as the name of the corporation or parties applying for approval. The notice shall also state that any interested parties who wish to make written comments on the application shall so indicate to the department in writing within twenty (20) days after publication of the notice.

Section 2. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) ***The*** [~~Such~~] real estate is necessary or appropriate for the transaction of legitimate business ***and the acquisition has been approved by the commissioner as required by KRS 287.103***; and

(b) The cost of ***the*** [~~such~~] real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). ***The*** [~~Such~~] investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, sec. 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, ***or a series of such company,*** whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

(a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the bank's generally accepted banking market. For purposes of this section, "the bank's generally accepted banking market" means the geographic banking market at the time the investment is made as defined by the Federal Reserve Bank in the federal reserve district in which the bank is located. ***The*** [~~Such~~] investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. [~~Provided, however, that~~] Any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank; and

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank.

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other [~~such~~] investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

Section 3. KRS 287.280 is amended to read as follows:

(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent (20%) of its capital stock actually paid in and its actual amount of surplus, unless ***the*** [~~such~~] person pledges with it good collateral security or executes to it a mortgage upon real or personal property which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances; but [~~in no event shall~~] the indebtedness or obligation of any person ***shall not*** exceed thirty percent (30%) of the paid-in capital and actual surplus of the bank or trust company.

(2) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount which exceeds that which any other person is authorized by this section to become indebted or obligated. [~~Such indebtedness, which term includes granting a line of credit, or obligation, is permitted if:~~

~~(a) The indebtedness or obligation is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank or trust company with other persons not covered by this subsection and does not involve more than the normal risk of repayment or present other unfavorable features; and~~

~~(b) The indebtedness or obligation has been approved in advance by a majority of the entire board of directors of the bank or trust company and the interested party has abstained from participating directly or indirectly in the voting provided, that approval by the board of directors under this paragraph is not required:~~

~~1. For an indebtedness or obligation incurred pursuant to a line of credit that was approved under this paragraph within fourteen (14) months of the date the indebtedness or obligation is incurred; or~~

~~2. If the indebtedness or obligation, when aggregated with all other indebtednesses or obligations of the director or executive officer or of any related interest of the director or executive officer, is less than the higher of twenty-five thousand dollars ($25,000) or five percent (5%) of the paid-in capital and actual surplus of the bank or trust company.~~

~~In no event may a bank or trust company permit any one (1) of its directors or executive officers, or any related interest of that person, to become indebted or obligated to it in an amount that, when aggregated with all other indebtednesses or obligations of that person, and all related interests of that person, exceeds five hundred thousand dollars ($500,000), except by complying with the requirements of this subsection.~~

~~(3) For purposes of subsection (2) of this section:~~

~~(a) The term "indebtedness" or "obligation" does not include an indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement by which a bank or trust company acquires charge or time credit accounts or makes payments to or on behalf of participants in a bank credit card plan, check credit plan, interest bearing overdraft credit plan or similar open-end credit plan if the indebtedness does not involve prior individual clearance or approval by the bank or trust company other than for the purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement, and the indebtedness is incurred under terms that are not more favorable than those offered to the general public;~~

~~(b) As used in this section, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer an assistant, or the officer is serving without salary or other compensation. The chairman of the board, the president, every vice-president, the cashier, the secretary, and the treasurer of a bank or trust company are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or trust company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company, and the officer does not actually participate therein; and~~

~~(c) As used in this section, "related interest" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein that is controlled by a person or a political or campaign committee that is controlled by a person or the funds or services of which will benefit a person. Any of the foregoing entities or committee are controlled by a person if that person directly or indirectly, or acting through or in concert with one (1) or more persons:~~

~~1. Owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the entity or committees;~~

~~2. Controls in any manner the election of a majority of the directors of the entity or committee; or~~

~~3. Has the power to exercise a controlling influence over the management or policies of the entity or committee.~~]

(3)[~~(4)~~] In computing the indebtedness of any person, the liability of any partnership in which the person acts as a general partner shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(4)[~~(5)~~] Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(5)[~~(6)~~] The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating ***the*** [~~such~~] paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating ***the*** [~~such~~] paper to a bank.

Section 4. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to inspection by the commissioner or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months***, unless other examinations are accepted as provided in subsections (3) and (4) of this section,*** and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies***, or has engaged in unsafe or unsound banking practices.***

(2) The commissioner, deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.

(4) The commissioner may, in his discretion, accept examinations made by the Federal Deposit Insurance Corporation in lieu of examinations made under state laws.

Section 5. KRS 287.470 is amended to read as follows:

(1) Reports of examination of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company, [~~or~~] employee of the department***, or employee of a state or federal regulatory authority*** shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the Federal Deposit Insurance Corporation, the Federal Reserve Board and the Office of the Comptroller of the Currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

Section 6. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation*,* [~~and to the approval of~~] applications for branch banks ***and loan production offices, and applications to relocate a main or branch office***, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of ***the*** [~~such~~] banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at ***the*** [~~such~~] rates [~~as~~] the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs*,* [~~(~~]other than costs of examination*,*[~~)~~] incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the Federal Reserve System, Federal Deposit Insurance Corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by ***the*** [~~such~~] institution upon the basis of fair compensation for time and actual expense.

Section 7. KRS 287.690 is amended to read as follows:

(1) If the commissioner has knowledge or reasonable cause to believe that any bank or trust company, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the bank or trust company has engaged in violations of law, or charter, rule or regulation by the department, or in unsafe or unsound business practices, he may issue and serve upon ***the*** [~~such~~] bank, trust company, director, officer, employee, agent or other person a notice of charges containing a statement of facts with respect to alleged violations or practices, and not earlier than thirty (30) days nor later than sixty (60) days after service of ***the*** [~~such~~] statement fix the time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank, trust company, director, officer, employee, agent or other person.

(2) Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order.

(3) ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges

has been established, he may issue and serve upon the bank, trust company, director, officer, employee, agent or other person an order to cease and desist from any [~~such~~] violation or practice and, further, to take affirmative action to correct the conditions resulting from any [~~such~~] violation or practice.

(4) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of its depositors or investors, he may issue a temporary order requiring the bank or trust company, director, officer, employee, agent or other person to cease and desist from any [~~such~~] violation or practice.

(5) A cease and desist order or temporary cease and desist order shall become effective upon service upon the bank or trust company or at the expiration of not more than thirty (30) days after the date of service. Unless set aside, limited or suspended, as provided by subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of the administrative proceedings until the commissioner shall dismiss all specified charges, or, where a temporary cease and desist order has issued, until the effective date of a cease and desist order.

(6) Within ten (10) days after service of a temporary cease and desist order, the party or parties served may apply to the Circuit Court for the county in which the bank is located, or the Circuit Court of Franklin County, for an injunction setting aside, limiting, or suspending the enforcement, operation or effectiveness of ***the*** [~~such~~] order pending completion of administrative proceedings, and ***the*** [~~such~~] court shall have jurisdiction to issue an injunction.

(7) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order ***or cease and desist order*** issued pursuant to this section, the commissioner may apply to the Circuit Court for the county in which the bank or trust company is located, or the Circuit Court of Franklin County, for an injunction to enforce ***the*** [~~such~~] order, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

(8) If the commissioner shall determine that any officer or director of a bank or trust company has committed any violation of law, rule or regulation or of a cease and desist order which has become final, or has engaged in or participated in any unsafe or unsound practice in connection with the bank or trust company, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as [~~such~~] officer or director, and the commissioner determines that the bank or trust company has suffered or will probably suffer substantial financial loss or other damages or that the interests of its depositors or investors could be seriously prejudiced by reason of ***the*** [~~such~~] violation or practice of breach of fiduciary duty or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon ***the*** [~~such~~] director or officer a written notice of intention to remove him from office. The violation, practice or breach ***shall*** [~~must~~] be one (1) involving personal dishonesty on the part of ***the*** [~~such~~] director or officer, or one (1) which demonstrates a willful or continuing disregard for the safety or soundness of the bank. The written notice shall serve to suspend the officer or director from office. ***The*** [~~Such~~] suspension shall become effective upon service of ***the*** [~~such~~] notice and, unless stayed by a court in proceedings authorized by subsection (10) of this section, shall remain in effect pending the completion of the administrative proceedings under subsection (9) of this section and until ***the*** [~~such~~] time [~~as~~] the commissioner shall dismiss the charges specified in ***the*** [~~such~~] notice or, if an order of removal is issued against the officer or director, the effective date of ***the*** [~~any such~~] order. ***The resignation of an officer or director from the bank shall not prohibit the commissioner from pursuing an action for removal of the officer or director.***

(9) A notice of intention to remove an officer or director from office shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. ***The*** [~~Such~~] hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after the date of service of ***the*** [~~such~~] notice,[~~;~~] unless an earlier date is set by the commissioner at the request of ***the*** [~~such~~] officer or irector and for good cause shown. Unless ***the*** [~~such~~] officer or director shall appear at the hearing in person or by duly authorized representative, he shall be deemed to have consented to the issuance of an order of [~~such~~] removal. ***If the parties*** [~~In the event of such~~] consent, or if upon the record made at any [~~such~~] hearing the commissioner shall find that any of the grounds specified in ***the*** [~~such~~] notice have been established, the commissioner may issue [~~such~~] orders of suspension or removal from office as he deems appropriate.

(10) Within ten (10) days after an officer or director has been suspended from office, ***the*** [~~such~~] officer or director may apply to the Circuit Court for the county in which the bank or trust company is located for a stay of ***the*** [~~such~~] suspension pending the completion of the administrative proceedings pursuant to the notice served upon ***the*** [~~such~~] officer or director, and ***the*** [~~such~~] court shall have jurisdiction to grant ***the*** [~~such~~] stay.

(11) The bank, trust company or person assessed shall be afforded an opportunity for a hearing upon request made to the commissioner within ten (10) days after issuance of the assessment notice. Any [~~such~~] hearing shall be on the record and the commissioner's determination shall constitute a final order. If no hearing is requested within the ten (10) days, the notice of assessment shall constitute a final order.

(12) Any person aggrieved by a final order of the commissioner under subsections (9) or (11) of this section may obtain a review of the order by filing in the Circuit Court for the county in which the bank or trust company is located a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner and thereupon the commissioner or his agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was argued before the commissioner or there were reasonable grounds for failure to do so.

(13) The commissioner may apply to the Circuit Court for the county in which the bank or trust company is located for an injunction to enforce any order issued under subsection (9) of this section or any assessment made under subsection (11) of this section, and it shall be the duty of the court to issue ***the*** [~~such~~] injunction.

Section 8. KRS 294.100 is amended to read as follows:

(1) No mortgage loan company or mortgage loan broker may establish or maintain a branch office without prior written approval of the commissioner.

(2) Each application for approval of the establishment and maintenance of a branch office shall state the proposed location, the functions to be performed and [~~such~~] other information which the commissioner may require if different from that contained in the original application for registration.

(3) Each application under this section shall be verified and accompanied by ***the appropriate fee as set out in KRS 294.034(1)(b)*** [~~a non-refundable fee of two hundred dollars ($200)~~].

(4) Upon the receipt by the commissioner of [~~such~~] an application and the required fee, if he finds that the applicant is otherwise in compliance with the provisions of this chapter, he shall approve the application.

Section 9. KRS 294.130 is amended to read as follows:

(1) All moneys paid to the mortgage loan company for payment of taxes or insurance premiums on property which secures any loan made or serviced by the mortgage loan company shall be deposited in an account which is insured by [~~the federal savings and loan insurance corporation or~~] the Federal Deposit Insurance Corporation or any other account acceptable to the Federal National Mortgage Association or the U. S. Department of ***Housing and*** Urban Development or the Government National Mortgage Association or the U. S. Veterans Administration and kept separate, distinct and apart from funds belong to the mortgage loan company. ***The*** [~~Such~~] funds, when deposited, ***shall*** [~~are to~~] be designated as an "escrow account" or under some other appropriate name indicating that the funds are not the funds of the mortgage loan company.

(2) Any interest earned on funds deposited into an escrow account under subsection (1) shall belong to the borrower and shall be applied to the expenses to be paid from ***the*** [~~such~~] account.

(3) The mortgage loan company shall, upon reasonable notice, account to any debtor whose property secures a loan made by the mortgage company for any funds which that person has paid to the mortgage loan company for the payment of taxes or insurance premiums on the property in question.

(4) The mortgage loan company shall, upon reasonable notice, account to the commissioner for all funds in the company's escrow account.

(5) Escrow account funds ***shall*** [~~are~~] not ***be*** subject to execution or attachment on any claim against the mortgage company. It ***shall be*** [~~is~~] unlawful for any mortgage company to knowingly keep or cause to be kept any funds or money in any bank under the heading of "escrow account" or any other name designating ***the*** [~~such~~] funds or money belonging to the debtors of the mortgage loan company, except actual funds paid to the mortgage loan company for the payment of taxes and insurance premiums on property securing loans made or serviced by the company.

(6) Payments to the debtor's escrow account shall be promptly and properly credited. All escrowed taxes, insurance and other items shall be paid in a timely fashion and not later than the statutory or contractual deadline applicable thereto.

Section 10. KRS 294.180 is amended to read as follows:

(1) In the conduct of any examination, investigation or hearing, the commissioner or an officer designated by him may compel the attendance of any person or obtain any documents by subpoenas; administer oaths or affirmations in the examination of the directors, officers, agents, employees of any mortgage loan company***, or mortgage loan broker*** or any other person concerning the business and conduct of affairs or any person subject to the provisions of this chapter, and in connection therewith may require and compel the production of any books, records, papers or other documents relevant to the inquiry.

(2) In the contumacy by, or refusal to obey a subpoena issued to, any person, Franklin Circuit Court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(3) The cost of any investigation or hearing conducted under KRS 294.190 may be assessed to and collected from the mortgage loan company ***or mortgage loan broker*** in question by the commissioner.

Section 11. KRS 294.190 is amended to read as follows:

(1) The commissioner may investigate either upon complaint or otherwise when it appears that a mortgage loan company ***or mortgage loan broker*** is conducting its business in an unsafe and injurious manner or in violation of this chapter, or any rule or order hereunder, or when it appears that any person is engaging in the mortgage loan business without being registered under the provisions of this chapter.

(2) ***If*** [~~Whenever~~] it appears to the commissioner upon sufficient grounds or evidence satisfactory to the commissioner that any mortgage loan company ***or mortgage loan broker*** has engaged in or is about to engage in any practice in violation of this chapter or any rule or order hereunder, [~~or the assets or capital of any mortgage loan company are impaired~~] or the mortgage loan company's ***or mortgage loan broker's*** affairs are in an unsafe condition the commissioner may:

(a) Order the mortgage loan company ***or mortgage loan broker*** to cease and desist from ***the*** [~~such~~] acts or practices by a formal written order delivered to the company ***or broker*** stating any alleged violation together with a statement of the facts alleged to be ***the*** [~~such~~] violation. The order shall specify the effective date thereof and notice of entry shall be served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the delivery of ***the*** [~~such an~~] order, it shall be made final and shall remain in effect until withdrawn by the commissioner or terminated by a court order;

(b) Apply directly to Franklin Circuit Court to enjoin any acts or practices in violation of this chapter and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond.

Section 12. KRS 294.200 is amended to read as follows:

Notice of the entry of any order of suspension or denial of a ***license to*** [~~registration of~~] any mortgage loan company ***or mortgage loan broker*** shall be given in writing, served personally or sent by certified mail or telegraph to the company ***or broker*** affected. The company ***or broker***, upon application, ***shall be*** [~~is~~] entitled to a hearing; but if no [~~such~~] application is made within twenty (20) days after the entry of an order of suspension or denial of a ***license to*** [~~registration of~~] any company ***or broker***, the commissioner shall enter a final order in either case.

Section 13. KRS 294.990 is amended to read as follows:

(1) Any person who wilfully violates any provision of this chapter, except KRS 294.220(1), or who willfully violates KRS 294.220(1) knowing the statement to be false or misleading in any material respect, shall be guilty of a Class D felony.

(2) Any person who willfully violates any rule or order of the commissioner, authorized under this chapter, shall be guilty of a Class A misdemeanor, but no person may be imprisoned for violation of any rule or order of which that person did not have actual knowledge.

(3) The commissioner may refer ***the*** [~~such~~] evidence [~~as is~~] available concerning violations of this chapter or any rule or order hereunder to the appropriate prosecuting attorney, who may, with or without [~~such~~] reference, institute the appropriate criminal proceeding under this chapter.

(4) Nothing in this chapter limits the powers of the state to punish any person for any conduct which constitutes a crime.

(5) The commissioner shall assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) against any mortgage loan company that fails to perform the duties set out in KRS 294.130. The Attorney General shall institute an action, in the name of the Commonwealth, in the Franklin Circuit Court or the Circuit Court of the county in which the violation occurred, for the recovery of the fine.

Section 14. KRS 287.375 is amended to read as follows:

(1) Every bank shall retain its business records for such periods as are or may be prescribed by or in accordance with the terms of this section.

(2) Each bank shall retain permanently the minute book of meetings of its stockholders and directors, its capital stock ledger and capital stock certificate ledger or stubs, its general ledger, its daily statements of condition, its general journal, its investment ledger, its copies of bank examination reports, and all records which the commissioner shall, in accordance with the terms of this section, require to be retained permanently.

(3) All other bank records shall be retained for such periods as the commissioner shall, in accordance with the terms of this section, prescribe.

(4) The commissioner shall from time to time issue regulations classifying all records kept by banks and prescribing the period for which records of each class shall be retained. Such periods may be permanent or for a lesser term of years. Such regulations may from time to time be amended or repealed. Prior to issuing any such regulation the commissioner shall consider:

(a) Actions at law and administration proceedings in which the production of bank records might be necessary or desirable;

(b) State and federal statutes of limitation applicable to such actions or proceedings;

(c) The availability of information contained in bank records from other sources;

(d) Such other matters as the commissioner shall deem pertinent in order that its regulations will require banks to retain their records for as short a period as is commensurate with the interests of bank customers and shareholders and of the people of this state in having bank records available.

(5) Any bank may dispose of any record which has been retained for the period prescribed by or in accordance with the terms of this section for retention of records of its class, and shall thereafter be under no duty to produce such record in any action or proceeding.

(6) Any bank, including the Department of Financial Institutions, may cause any or all records at any time in its custody to be reproduced by the microphotographic process***, nonerasable optical image discs (CD's), or other records retention technology approved by the department,*** and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(7) To the extent that they are not in contravention of any law of the United States, the provisions of this section shall apply to all banks doing business in this state.

Section 15. KRS 287.470 is amended to read as follows:

(1) Reports of examination***, and correspondence that relates to the report of examination,*** of a bank or trust company shall be considered confidential information. No officer or director of a bank or trust company or employee of the department shall release any information contained in the examination, except when:

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentiality has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the bank, or to outside persons for the purpose of evaluating the bank for possible acquisition. Reports of examination released to outside persons providing professional services to the bank or for the purpose of evaluating the bank for possible acquisition, shall require a written request from such outside persons and prior approval by the board of directors or an executive committee of the bank.

(2) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities, including the federal deposit insurance corporation, the federal reserve board and the office of the comptroller of the currency.

(3) Every official report concerning a bank or trust company, and every report of examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the department, bank or trust company is a party.

SECTION 16. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) The first day of January (New Year's Day), Easter Sunday, the last Monday in May (Memorial Day), the fourth day of July (Independence Day), the first Monday in September (Labor Day), the fourth Thursday in November (Thanksgiving Day), and the twenty-fifth day of December (Christmas) of each year are holidays on which banks shall close. If New Year's Day, Independence Day, or Christmas falls on a Saturday or Sunday, either the preceding Friday or the succeeding Monday shall also be observed as a holiday and the offices of banks closed.

(2) Except as provided in subsection (1) of this section, a bank may, at its option, either close or remain open for business on any day of the week provided the days of the week and the hours which an office of the bank will remain open are conspicuously posted in that office.

(3) A bank, or an office thereof, may, because of an emergency or any other reason deemed sufficient by the bank, close on any day or days which it would normally be open for business by giving five (5) business days' notice of the closing to the public by posting a statement to that effect in a conspicuous place in the office of the bank which will be closed unless the giving of the notice is impractical because of the existence of an emergency or other condition.

(4) Any day on which a bank is closed pursuant to the provisions of this section shall not be a banking day of the bank within the meaning of KRS Chapter 355 or any other law, and no bank shall be required to permit access to its safe deposit vaults on that day. When a contract by its terms requires the payment of money or the performance of a condition by or at the bank on a day when the bank is closed, the payment shall be made or condition performed on the next business day succeeding the day when the bank was closed. The payment shall be deemed made and the condition performed with the same force and effect as if made in accordance with the terms of the contract, and no liability or loss of rights shall result from the delay.

Section 17. KRS 2.110 is amended to read as follows:

(1) The first day of January (New Year's Day), the third Monday of January (Birthday of Martin Luther King, Jr.), the nineteenth day of January (Robert E. Lee Day), the thirtieth day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the third day of June (Confederate Memorial Day, and Jefferson Davis Day), the fourth day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the eleventh day of November (Veterans Day), the twenty-fifth day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the Governor as days of thanksgiving, are holidays, on which all the public offices of this Commonwealth may be closed[~~; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly~~].

(2) [~~Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the third Monday of January (Birthday of Martin Luther King, Jr.), the nineteenth day of January (Robert E. Lee Day), the thirtieth day of January (Franklin D. Roosevelt Day), the twelfth day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the third day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the eleventh day of November (Veterans Day), provided that any bank, trust company or combined bank and trust company electing to close on any of the above holidays may provide fifteen (15) days' notice to the public of such closing by posting a statement to such effect in some conspicuous place in said institution. Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the Uniform Commercial Code or any other law of the Commonwealth and such bank, trust company, or combined bank and trust~~

~~company shall incur no liability by reason of remaining open on such holiday. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this Commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this Commonwealth to the contrary.~~

~~(3)~~] No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Section 18. KRS 2.190 is amended to read as follows:

The Tuesday after the first Monday in November in Presidential election years shall be a state holiday on which all state offices, all schools and all state universities and colleges shall be closed[~~, and which shall be treated as Sunday for all purposes of banking and negotiable instruments law~~]. Any employee who is required to work on said state holiday shall receive compensatory pay or time off.

SECTION 19. A NEW SECTION OF KRS CHAPTER 366 IS CREATED TO READ AS FOLLOWS:

Each licensee shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the commissioner. The commissioner shall fix a scale of examination fees to be paid by licensees, which fees shall be assessed and paid by each licensee promptly after completion of the examination.

Section 20. KRS 366.130 is amended to read as follows:

The commissioner may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of this chapter. [~~In furtherance of the foregoing, the department, if it has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books and records of the licensee.~~]

Section 21. KRS 291.115 is amended to read as follows:

(1) Stockholders in investment companies shall be liable equally and ratably, and not one for the other, for all contracts and liabilities of the company to the extent of the amount of their stock at par value, in addition to the amount of such stock.

(2) Persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estates in their hands shall be liable the same as the property of other stockholders.

(3) No transfer of stock shall release any such liability existing at the time of the transfer if the action to enforce such liability is commenced within two (2) years from the time of transfer.

[~~(4) The liability of stockholders provided by this section may be enforced as provided in KRS 287.365 for stockholders of banks and trust companies.~~]

Section 22. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 287.030 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200).

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employee of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who willfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of one hundred dollars ($100) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed one thousand dollars ($1,000).

(9) Each person, bank or trust company that willfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

(10) Whenever any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9) (15), (16), (17) or (18) of this section is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the fine.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.720 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.720 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank or trust company which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a fine of not more than one thousand dollars ($1,000) per day for each day such violation continues. The fine shall be assessed by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the fine the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 287.065(3) shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). The fines shall be assessed by the commissioner by written notice.

(17) Any bank which violates any provisions of KRS 287.100(10) may be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for the first violation, and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000) for any subsequent violations.

(18) Any officer or director who violates the provisions of KRS 287.280(1) [~~and (3)~~] shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation, and any officer or director who violates the provisions of KRS 287.280(2) shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each violation. The fine shall be assessed by the commissioner by written notice.

Section 23. The following KRS sections are repealed:

287.325	Advertising notice required where not federally insured.
287.360	Double liability for certain stock issued prior to May 16, 1936.
287.365	Enforcement of stockholders' liability.
287.195	Permissive holidays.

The Committee Amendment No. 1 to **SB 123** is as follows:

Amend printed copy of **SB 123** on page 37, after line 10 and before line 11 by inserting:

"Section 20. KRS 366.030 is amended to read as follows:

No license to sell checks as aforesaid shall be required hereunder of any of the following:

(1) Banks, trust companies, building and loan associations, [~~and~~] savings and loan associations ***, and credit unions*** organized under the laws of this state or authorized to do business in this state.

(2) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph."

On page 37, line 11; after "section" by deleting "20" and inserting in lieu thereof "21" and renumbering subsequent sections accordingly.

The Committee Title Amendment to **SB 123** is as follows:

Amend printed copy of **SB 123** by amending the title to read as follows:

"AN ACT relating to the regulation of financial services."

The Committee on Cities reported **HB 65**, with Committee Substitute attached thereto, **HB 67**, with Committee Amendment attached thereto, **HB 211**, **HB 381**, with Committee Substitute attached thereto, and **HB 508** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to the Kentucky Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the Board of Trustees of the Kentucky Retirement Systems composed of ***eleven (11)*** [~~nine (9)~~] members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) The state local finance officer shall serve as trustee for as long as he occupies the position of state local finance officer under KRS 147A.020, except as provided under subsections (5) and (6) of this section;

(c) Two (2) trustees, who must be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(d) One (1) trustee, who must be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(e) Two (2) trustees, who must be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System;

(f) Two (2) trustees, appointed by the Governor of the Commonwealth*;*

(g) One (1) trustee appointed by the Kentucky League of Cities; and

(h) One (1) trustee appointed by the Kentucky Association of Counties.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

(d) The state local finance officer shall have an initial term beginning on April 1, 1992.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel or the state local finance officer resign his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employees as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of ***the*** [~~said~~] board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board and the Attorney General may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in such other places as may be necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

The Committee Substitute to **HB 65** is as follows:

HB 65, AN ACT relating to the Kentucky Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the Board of Trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) The state local finance officer shall serve as trustee for as long as he occupies the position of state local finance officer under KRS 147A.020, except as provided under subsections (5) and (6) of this section;

(c) Two (2) trustees, who must be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(d) One (1) trustee, who must be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(e) Two (2) trustees, who must be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; ***and***

(f) Two (2) trustees, appointed by the Governor of the Commonwealth***, one (1) from a list of three (3) candidates submitted by the Kentucky League of Cities, and the other from a list of three (3) candidates submitted by the Kentucky Association of Counties.***

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

(d) The state local finance officer shall have an initial term beginning on April 1, 1992.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel or the state local finance officer resign his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employees as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of ***the*** [~~said~~] board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board and the Attorney General may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in such other places as may be necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

HB 67, AN ACT relating to nudity.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "nudity" means:

(a) The showing of the nipple and areola of the breast, genitalia, or pubic area, without an opaque covering by a living female human being; or

(b) The showing of genitalia or pubic area without an opaque covering by a living male human being.

(2) Cities of all classes shall have the authority to enact an ordinance to regulate or prohibit nudity in establishments located within the city that are licensed to sell alcoholic beverages.

The Committee Amendment No. 1 to **HB 67** is as follows:

Amend printed copy of **HB 67** on page 1, lines 3-8, by deleting them in their entirety; and

On page 1, line 9, by deleting "***(2)***".

HB 211, AN ACT relating to retirement survivor benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.492 is amended to read as follows:

(1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving widow ***shall*** [~~must~~] have been married to the member for at least ***three (3)*** [~~six (6)~~] months prior to ***the death of the retired member*** [~~retirement~~] in order to be eligible for the benefits provided in this section.

(2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:

(a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.

(b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued at the same rate after his death to his eligible widow until her death or remarriage.

HB 381, AN ACT relating to planning commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The ***legislative bodies and fiscal courts of the planning unit shall give their approval of the elements of the comprehensive plan before the*** planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after ***the legislative bodies and fiscal courts give their approval and*** a public hearing ***is held*** before the planning commission.

(2) ***Within thirty (30) days of the effective date of this Act, the current comprehensive plan shall be submitted to the legislative bodies and fiscal courts in each planning unit. If, within ninety (90) days of the effective date of this Act, no action is taken to disapprove of any of the elements of the current comprehensive plan, it shall remain in effect. Any element disapproved of within the ninety (90) days shall be subject to the provisions of subsection (1) of this Act.***

(3) The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. [~~If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action.~~] If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission[~~, or the legislative body in the case of the statement of goals and objectives element,~~] to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(4)[~~(3)~~] Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in KRS 100.193.

The Committee Substitute to **HB 381** is as follows:

HB 381, AN ACT relating to planning commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. ***Before adoption or readoption of the elements,*** the planning commission shall***:***

(a) Hold a public hearing ***to consider*** [~~and adopt~~] the elements***; and***

(b) Submit the proposed elements to the legislative bodies and fiscal courts of the planning unit.

(2) Within thirty (30) days of receiving the proposed elements, each member of the planning unit shall:

(a) Submit a report to the planning commission giving their decision regarding the elements; and

(b) Specify in the report any elements or portions of the elements that were disapproved.

(3) The elements shall become effective upon receipt of all of the reports from the members of the planning unit or when thirty (30) days have elapsed from the time the proposed elements were submitted to each of the planning unit's members. Any elements, or portions of the elements, that were disapproved as provided by subsection (2)(b) of this section, shall not become effective for the jurisdictions in which they were disapproved. The planning commission may recommend amendments to any elements, or portions of elements, that fall under the provisions of subsection (2)(b) of this section. These amendments shall be subject to the provisions of subsections (1)(b), (2), and (3) of this section.

(4) The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after ***compliance with subsections (1), (2), and (3) of this section*** [~~a public hearing before the planning commission~~].

(5) Within thirty (30) days of the effective date of this Act, the current comprehensive plan shall be submitted to the legislative bodies and fiscal courts in each planning unit for compliance with subsections (2) and (3) of this section.

(6)[~~(2)~~] The elements of the comprehensive plan shall be reviewed by the planning commission at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended, then the proposed amendments shall ***comply with subsections (1), (2), and (3) of this section*** [~~be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption~~]. If the goals and objectives statement is not proposed to be amended, it shall not be ***required to comply with subsections (1), (2), and (3) of this section*** [~~necessary to submit it to the legislative bodies and fiscal courts for action~~]. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission[~~, or the legislative body in the case of the statement of goals and objectives element,~~] to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(7)[~~(3)~~] Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in KRS 100.193.

HB 508, AN ACT changing the classification of the city of Graymoor/Devondale, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Graymoor/Devondale, in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The city of Graymoor/Devondale, in Jefferson County, is transferred from the sixth to the fourth class of cities.

The Committee on Business Organizations and Professions reported **HB 91**, with Committee Title Amendment and Committee Substitute attached thereto, **HB 374**, **HB 420**, **HB 568** and **HB 578**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 91, AN ACT relating to land surveying.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 322 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly of the Commonwealth of Kentucky that this Act shall not eliminate the existing methods of describing points of the surface of the earth, as in metes and bounds or, in western Kentucky, the public land system, but rather to enhance these existing methods and establish a conformity for retracement purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 322 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Coordinate System of 1983, which is hereby adopted, means a system of plane coordinates which have been established by the National Ocean Service/National Geodetic Survey for defining and stating the geographic positions or locations of points on the surface of the earth within the Commonwealth of Kentucky.

(2) For this system, the Commonwealth shall be divided into a north zone and a south zone. The north zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 37 degrees, 58 minutes, and 38 degrees, 58 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 84 degrees, 15 minutes west of Greenwich, and the parallel 37 degrees, 30 minutes north latitude. This origin shall be given the coordinates: N0, E500,000.000 meters. The south zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 36 degrees, 44 minutes, and 37 degrees, 56 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 85 degrees, 45 minutes west of Greenwich, and the parallel 36 degrees, 20 minutes north latitude. This origin shall be given the coordinates: N500,000.000, E500,000.000 meters. The southern edge of the following counties shall delineate the boundary between the north zone and the south zone: Bullitt, Spencer, Anderson, Woodford, Jessamine, Fayette, Clark, Montgomery, Menifee, Morgan, and Lawrence.

(3) One U.S. Survey Foot equals (1200)/(3937) meter. For conversion of meters to U.S. Survey Feet, multiply the meters by 3.28083333333 to twelve (12) significant figures. When converting from meters to feet, the conversion factor defined by the U.S. Survey Foot shall be used.

(4) The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of the point in the appropriate zone of this system, shall consist of two (2) distances expressed in U.S. Survey Feet and decimals of a foot when using the Kentucky Coordinate System of 1983. For the Kentucky Coordinate System of 1983, one (1) of the distances, to be known as the "northing" or "N", shall give the position in a north/south direction. The other, to be known as the "easting" or "E" shall give the position in an east/west direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinates values for the monumented points of the North American National Geodetic Horizontal Network as published by the National Ocean Service/National Geodetic Survey, and whose plane coordinates have been computed on the systems established by the National Ocean Service/National Geodetic Survey. Any such station may be used for establishing a survey connection to the Kentucky Coordinate System of 1983.

(5) For purposes of describing the location of any survey station or land boundary corner in the Commonwealth of Kentucky, it shall be considered a complete, legal, and satisfactory description of the location to give the position of the survey station or land boundary corner on the Kentucky Coordinate System of 1983.

(6) Nothing contained in this Act shall require a purchaser or mortgagee of real property to rely wholly on a land description any part of which depends exclusively upon the Kentucky Coordinate System of 1983.

(7) When any tract of land to be defined by a single description extends from one (1) into the other of the two (2) zones, the position of all points on its boundaries may be referred to either of the two (2) zones. The zone which is used shall be named in the description.

(8) No coordinates based on the Kentucky Coordinate System of 1983, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless the point has been tied to an existing monumented horizontal control station established in conformity with the standards of accuracy and specifications for first or second order geodetic surveying as prepared and published by the Federal Geodetic Control Committee (FGCC) of the United States Department of Commerce. The survey used to tie a point into these monumented control stations shall conform to the standards and specifications of a minimum of 3rd order accuracies as set forth by the Federal Geodetic Control Committee. Standards and specifications of the FGCC, or its successor, in force on the date of the survey shall apply. Publishing existing control stations, or the acceptance with intent to publish the newly established stations, by the National Ocean Service/National Geodetic Survey shall constitute evidence of adherence to the FGCC specifications. These requirements may be modified by a duly authorized state agency or local agency to meet local conditions.

(9) The use of the terms "KENTUCKY COORDINATE SYSTEM OF 1983 NORTH ZONE" or "KENTUCKY COORDINATE SYSTEM OF 1983 SOUTH ZONE" on any map, report of survey, or other document shall be limited to coordinates based on the Kentucky Coordinate System as defined in this Act.

(10) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

The Committee Title Amendment to **HB 91** is as follows:

Amend printed copy of **HB 91** by amending the title to read as follows: AN ACT relating to land surveying for property descriptions.

The Committee Substitute to **HB 91** is as follows:

HB 91, AN ACT relating to land surveying.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 1 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly of the Commonwealth of Kentucky that this Act shall not eliminate the existing methods of describing points of the surface of the earth, as in metes and bounds or, in western Kentucky, the public land system, but rather to enhance these existing methods and establish a conformity for retracement purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 1 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Coordinate System of 1983, which is hereby adopted, means a system of plane coordinates which have been established by the National Ocean Service/National Geodetic Survey for defining and stating the geographic positions or locations of points on the surface of the earth within the Commonwealth of Kentucky.

(2) For this system, the Commonwealth shall be divided into a north zone and a south zone. The north zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 37 degrees, 58 minutes, and 38 degrees, 58 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 84 degrees, 15 minutes west of Greenwich, and the parallel 37 degrees, 30 minutes north latitude. This origin shall be given the coordinates: N0, E500,000.000 meters. The south zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 36 degrees, 44 minutes, and 37 degrees, 56 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 85 degrees, 45 minutes west of Greenwich, and the parallel 36 degrees, 20 minutes north latitude. This origin shall be given the coordinates: N500,000.000, E500,000.000 meters. The southern edge of the following counties shall delineate the boundary between the north zone and the south zone: Bullitt, Spencer, Anderson, Woodford, Jessamine, Fayette, Clark, Montgomery, Menifee, Morgan, and Lawrence.

(3) One U.S. Survey Foot equals (1200)/(3937) meter. For conversion of meters to U.S. Survey Feet, multiply the meters by 3.28083333333 to twelve (12) significant figures. When converting from meters to feet, the conversion factor defined by the U.S. Survey Foot shall be used.

(4) The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of the point in the appropriate zone of this system, shall consist of two (2) distances expressed in U.S. Survey Feet and decimals of a foot when using the Kentucky Coordinate System of 1983. For the Kentucky Coordinate System of 1983, one (1) of the distances, to be known as the "northing" or "N", shall give the position in a north/south direction. The other, to be known as the "easting" or "E" shall give the position in an east/west direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinates values for the monumented points of the North American National Geodetic Horizontal Network as published by the National Ocean Service/National Geodetic Survey, and whose plane coordinates have been computed on the systems established by the National Ocean Service/ National Geodetic Survey. Any such station may be used for establishing a survey connection to the Kentucky Coordinate System of 1983.

(5) For purposes of describing the location of any survey station or land boundary corner in the Commonwealth of Kentucky, it shall be considered a complete, legal, and satisfactory description of the location to give the position of the survey station or land boundary corner on the Kentucky Coordinate System of 1983.

(6) Nothing contained in this Act shall require a purchaser or mortgagee of real property to rely wholly on a land description any part of which depends exclusively upon the Kentucky Coordinate System of 1983.

(7) When any tract of land to be defined by a single description extends from one (1) into the other of the two (2) zones, the position of all points on its boundaries may be referred to either of the two (2) zones. The zone which is used shall be named in the description.

(8) No coordinates based on the Kentucky Coordinate System of 1983, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless the point has been tied to an existing monumented horizontal control station established in conformity with the standards of accuracy and specifications for first or second order geodetic surveying as prepared and published by the Federal Geodetic Control Committee (FGCC) of the United States Department of Commerce. The survey used to tie a point into these monumented control stations shall conform to the standards and specifications of a minimum of 3rd order accuracies as set forth by the Federal Geodetic Control Committee. Standards and specifications of the FGCC, or its successor, in force on the date of the survey shall apply. Publishing existing control stations, or the acceptance with intent to publish the newly established stations, by the National Ocean Service/National Geodetic Survey shall constitute evidence of adherence to the FGCC specifications. These requirements may be modified by a duly authorized state agency or local agency to meet local conditions.

(9) The use of the terms "KENTUCKY COORDINATE SYSTEM OF 1983 NORTH ZONE" or "KENTUCKY COORDINATE SYSTEM OF 1983 SOUTH ZONE" on any map, report of survey, or other document shall be limited to coordinates based on the Kentucky Coordinate System as defined in this Act.

(10) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

HB 374, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional [~~civil or mining~~] engineer ***or land surveyor*** registered in Kentucky. KRS ***322.290*** [~~322.340~~] requires ***registrants to practice only in areas of competence*** [~~that plats, etc. be stamped with their seal~~]. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending __________,
Certifying Agent

"Acknowledged before me, a ______________, this ____ day of __________."

____

____________________ SEAL

(2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

HB 420, AN ACT relating to the practice of chiropractic.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state, shall make application to the board, through its executive secretary, in the form and in the manner required by the board, at least thirty (30) days prior to any meeting held for examinations by the board. Each applicant shall have satisfactorily completed:

(a) Not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and Universities or an accrediting agency recognized by the Southern Association of Colleges and Universities or any successor to the powers of either and is a graduate of an accredited chiropractic college accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board; and

(b) The requirements of KRS 214.615(1).

(2) The board may by regulation recommend a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be made and signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to knowledge of the care of the sick, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation.

(4) Application for examination may be made on or before September 1, 1992, by persons who, prior to March 1, 1992, had submitted application for licensure to the board and who graduated between the years 1976 and 1991, from a chiropractic college which on January 1, 1992, is accredited by a specialized accrediting agency recognized by the United States Office of Education. The board shall administer an appropriate licensing examination prior to November 1, 1992. Persons licensed under this subsection shall complete twenty-four (24) hours of continuing chiropractic education during the first year of their licensure.

HB 568, AN ACT relating to the practice of engineering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of Registration for Professional Engineers and Land Surveyors;

(2) "Engineer" means a person who is qualified by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, to engage in the practice of professional engineering;

(3) "Engineering" includes any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, ***including earth materials, water, other liquids, and gases,*** planning the use of land and waters, and the review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems or projects with which the public welfare or the safeguarding of life, health or property is concerned, when such professional service requires the application of engineering principles and data. It does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, such as locomotive, stationary, marine or power plant operators, nor work embraced within the practice of land surveying;

(4) "Practice of engineering" includes all professional services included in subsection (3) of this section, together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one (1) or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations;

(5) "Land surveying" means any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys;

(6) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying;

(7) "Practice of land surveying" shall include the performance of any professional service included in subsection (5) of this section. "Offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out to the general public as possessing the ability and qualifications to perform land surveying within the terms of this section, KRS 322.200, 322.230 to 322.250, and 322.420 to 322.460;

(8) "Engineer in training" means a person who has passed a written examination in the fundamentals of engineering acceptable to the board; and

(9) "Land surveyor in training" means a person who has passed a written examination in the fundamentals of land surveying acceptable to the board.

Section 2. KRS 322.060 is amended to read as follows:

(1) A corporation, partnership, or firm may engage in the practice of engineering in this state if at least one (1) of the principals or officers of the corporation, partnership, or firm is in direct charge of the practice and is registered as an engineer in this state. Corporations, partnerships, or firms offering engineering services in this state shall file with the board, on a form prescribed by the board, a list of names, addresses, and registration numbers of all principals and officers, as well as the principals or officers duly registered to practice engineering in this state who are in direct charge of the practice in this state, and a listing of locations of all offices in this state at which the corporation, partnership, or firm offers professional engineering services. The corporations, partnerships, or firms shall advise the board in writing within thirty (30) days of any change of status. If more than one (1) place of business is maintained in this state a resident engineer registered in this state shall be in direct charge of each office. A listing of each registered engineer and his registration number and area of practice shall be provided for each office location.

(2) After a corporation, partnership, or firm applies for a permit and pays the proper fees, the board shall review the application, and, upon approval, shall issue a permit. The board may refuse to issue a permit, or suspend or revoke a permit for cause. The expiration date and renewal period for each permit and renewal procedures shall be established by administrative regulations. No corporation, partnership, or firm shall engage in providing engineering services without obtaining a permit under this section. Individual registered engineers providing engineering services in their own names shall be excluded from the provisions of this section. A professional engineer who renders occasional, part-time, or consulting engineering services to or for a firm shall not be designated as the person in charge for the professional activities of the firm.

(3) No corporation, partnership, or firm shall be relieved of responsibility for the conduct or acts of its agent, employees, or officers by reason of its compliance with this section. No individual practicing professional engineering shall be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a corporation, partnership, or firm licensed under this section.

(4) Disciplinary action against a corporation, partnership, or firm licensed under this section shall be administered in the same manner and on the same grounds as disciplinary action against a licensed professional engineer.

(5) The Secretary of State shall not issue a certificate of incorporation or a certificate of registration as a foreign corporation authorized to do business in this state to a firm which includes in its name or, among objects for which its is established, any of the words, "engineer", "engineering", or any modification or derivation thereof, unless the board has issued a certificate or letter from the board with its application for incorporation or registration with the Secretary of State [~~No company shall be registered. Admission to practice shall be determined upon the basis of individual, personal qualifications~~].

HB 578, AN ACT relating to real estate brokers and salesmen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to sales and purchases involving residential real estate if any person licensed under KRS Chapter 324 receives compensation.

(2) The commission shall promulgate an administrative regulation authorizing a "seller's disclosure of conditions form."

(3) The form shall provide for disclosure by the seller of the following:

(a) Basement condition and whether it leaks;

(b) Roof condition and whether it leaks;

(c) Source and condition of water supply;

(d) Source and condition of sewage service;

(e) Working condition of component systems; and

(f) Other matters the commission deems appropriate.

(4) The form shall be completed and signed by the seller at the time of listing for sale or, for property not listed for sale, completed and signed by the seller within five (5) business days of any executory contract for sale of the residential real estate.

(5) An accurate copy of the completed form shall be retained by the licensed broker or sales associate who receive compensation in the transaction. An accurate copy shall be delivered to any prospective purchaser upon request and to any prospective purchaser making a signed written offer to purchase, without unreasonable delay. Delivery shall be the responsibility of the broker or sales associate who anticipates being compensated in the transaction.

(6) If the seller refuses to complete and sign the form, his refusal shall be communicated in writing by the broker or sales associate who anticipates being compensated in the transaction to the purchaser or prospective purchaser, without unreasonable delay.

Section 2. KRS 324.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Broker" means any person who for a fee, commission, compensation, or other valuable consideration sells or offers for sale, buys, or offers to buy, [~~or otherwise~~] deals in time ***shares or*** [~~sharing~~] options, [~~or~~] negotiates the purchase, [~~or~~] sale, or exchange of real estate, [~~or~~] engages in property management, [~~or who~~] leases or offers to lease, [~~or~~] rents or offers for rent, or refers or offers to refer for the purpose of securing prospects, any real estate or the improvements thereon for others, but shall not apply to a person whose only compensation for negotiating the purchase, sale, or lease of an interest or interests in mineral rights consists of an interest in the rights that are the subject of the purchase, sale, or lease;

(b) "Commission" means the Kentucky Real Estate Commission;

(c) ***"Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the commission;***

(d) "Principal broker" means a broker as defined in paragraph (a) of this subsection who, in addition to performing acts or transactions comprehended by that definition, is the single broker responsible for the operation of the office or offices;

(e)[~~(d)~~] "Real estate" ***means real estate in its ordinary meaning and*** includes leaseholds and other interests less than leaseholds;

(f)[~~(e)~~] "Sales associate" means any person associated with a Kentucky-licensed principal broker for performing acts or transactions comprehended by the definition of "broker" as defined in paragraph (a) of this subsection and licensed ***under this chapter*** [~~as per KRS 324.046(2)~~];

(g)[~~(f)~~] "Approved real estate school" means:

1. A school that has been given a certificate of approval by the State Board ***for*** [~~of~~] Proprietary Education in addition to a certificate of approval by the Kentucky Real Estate Commission. The school ***shall*** [~~must~~] also be currently in good standing with both the State Board ***for*** [~~of~~] Proprietary Education and the commission; or

2. A national association of realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(h)[~~(g)~~] "Accredited real estate school" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward an associate degree or a baccalaureate degree to those students successfully completing a course in real estate; and

(i)[~~(h)~~] "Property management" means the marketing, leasing, ***or*** [~~maintenance, and~~] overall management of real property for others for a fee, commission, compensation, or other valuable consideration.

(2) One act for a fee, commission, compensation, or other valuable consideration of buying or selling real estate of or for another***;***[~~, or~~] offering for another to buy, sell, or exchange real estate***;***[~~, or~~] leasing, renting, or offering to rent real estate***,***[~~, or~~] referring or offering to refer real estate for the purpose of securing prospects***,***[~~;~~] or [~~otherwise~~] dealing in options or time sharing shall constitute the person performing, offering, or attempting to perform ***the*** [~~such~~] act as a broker or sales associate.

Section 3. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person to act as a broker or real estate sales associate or to advertise or assume to act as ***a*** [~~such~~] broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission.

(2) A licensee who is an owner or a builder-developer ***shall*** [~~must~~] comply with the provisions of this chapter and the ***administrative*** regulations applying to real estate brokers and sales associates.

(3) ***No*** [~~It shall be unlawful for any~~] broker ***shall*** [~~to~~] split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter***, except***[~~; provided, however,~~] that a broker may pay a commission to or split fees with a broker licensed outside of Kentucky who represents an out-of-state client.

(4) No sales associate licensed in Kentucky shall supervise another licensed sales associate or manage an office, except by permission of the commission and when acting on the death of the principal broker.

(5) The Kentucky Real Estate Commission ***may*** [~~shall have the authority to~~] seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where the unlawful activity took place.

Section 4. KRS 324.030 is amended to read as follows:

KRS 324.020***(1)*** shall not apply to:

(1) Any person who as owner or lessor performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employees, with respect to the property so owned or leased, ***if the*** [~~where such~~] acts are performed in the regular course of, or as an incident to the management of ***the*** [~~such~~] property and the investment in it;

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate;

(3) Any attorney at law who is performing his duties as attorney at law;

(4) Any receiver, trustee in bankruptcy, administrator, or executor, [~~or any~~] person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust, or will[~~,~~] or the regular salaried employees thereof;

(5) A ***person engaged in property management*** [~~manager, marketing or maintenance person for any real estate~~], ***if*** [~~provided that~~] the person:

(a) Is a regular employee of the owner ***or principal broker of the company engaged in property management; or***[~~;~~]

(b) [~~Is under the supervision of a principal broker; or~~

~~(c)~~] Receives as his primary compensation the use of a rental unit.

Section 5. KRS 324.040 is amended to read as follows:

(1) Every applicant for a license, whether as broker or sales associate, shall state whether [~~or not~~] the applicant has ever had any broker's or sales associate's license revoked or suspended. Every applicant for a license shall furnish a sworn statement setting forth ***his*** [~~the~~] business and residence address.

(2) Every applicant for a broker's ***or sales associate's*** license shall apply in writing upon forms prepared or furnished by the commission. The applicant shall state the name of the person or company with which he [~~or she~~] will be associated in the business of real estate[~~,~~] and the location of the place for which the license is desired. ***The applicant also***[~~, and~~] shall set forth the period of time, if any, during which he [~~or she~~] has been engaged in the real estate business.

(3) [~~Every applicant for a sales associate's license shall set forth the name and place of business of the company with whom he or she is to be associated.~~

~~(4)~~] Every applicant for a license shall be at least eighteen (18) years of age and shall have attained a high school diploma or its equivalent. After an applicant passes the required examination, the commission shall issue a license to him [~~or her~~].

Section 6. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in ***a*** [~~such~~] manner [~~as~~] to safeguard the interest of the public, and only after satisfactory proof of [~~such~~] qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant ***shall*** [~~must~~] pass a written examination conducted by ***the*** [~~said~~] commission, or its authorized representative. ***The***[~~, which~~] examination shall be of ***the*** scope and wording sufficient in the judgment of the commission to establish the competency and trustworthiness of the applicant to act as a broker or sales associate in ***a*** [~~such~~] manner [~~as~~] to protect the interests of the public. [~~Provided,~~] However, no examination shall be required for the renewal of any present or future license, unless ***the*** [~~such~~] license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at [~~such~~] times and places [~~as~~] it ***determines*** [~~may determine~~], and an examination fee shall be collected from each applicant to defray the expenses of holding ***the*** [~~such~~] examinations.

Section 7. KRS 324.046 is amended to read as follows:

(1) Every applicant for initial licensure as a broker shall have successfully completed not less than twenty-one (21) academic credit hours or the equivalent with at least twelve (12) hours in real estate courses from an accredited or approved real estate school and shall have been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior to application.

(2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or equivalent in real estate courses from an accredited or approved real estate school.

(3) Proof of ***the academic credit hours shall be*** [~~said activities will take the form of~~] an official transcript from the attended university and a sworn notarized affidavit signed by both the applicant and his principal broker or other documentation satisfactory to the commission. The applicant may file a complaint with the commission ***if*** [~~should~~] the principal broker unjustly ***refuses*** [~~refuse~~] to sign the affidavit.

(4) The commission may reduce the two (2) year experience requirement for applicants for a broker's license to one (1) year, if the applicant has an associate degree in real estate or a baccalaureate degree with a major in real estate.

(5) [~~No sales associate may apply to take the broker's examination if a formal complaint has been filed against him or her and has not been resolved.~~

~~(6)~~] Any person licensed under the real estate laws of this state prior to June 19, 1976, shall not be subject to any educational changes in this chapter ***or subject to any continuing education requirements*** [~~effected by Acts 1976, ch. 100, found in subsections (1) and (2) of this section.~~

~~(7) Effective April 1, 1984, only two (2) types of licenses, a real estate broker's license and a real estate sales associate's license, will be issued by the commission. The program will be phased in over a two (2) year period beginning in 1982 to allow licensees to meet the appropriate licensing requirements~~].

Section 8. KRS 324.070 is amended to read as follows:

The ***initial*** [~~original~~] and renewal fee for each broker's and sales associate's license shall be set by the commission each year and shall not exceed thirty dollars ($30).

Section 9. KRS 324.080 is amended to read as follows:

The commission shall issue to each licensee a license in ***the*** [~~such~~] form and size [~~as shall be~~] prescribed by ***administrative regulation promulgated by*** the commission. This license shall show the name and address of the licensee and, in case of a sales associate's license, shall show the name and business address of the principal broker. Each license shall have imprinted thereon the seal of the commission[~~,~~] and ***other*** [~~in addition to the foregoing shall contain such~~] matter [~~as shall be~~] prescribed by ***administrative regulation promulgated by*** the commission. The license of each sales associate shall be delivered or mailed to the principal broker with whom ***the*** [~~such~~] licensee is affiliated.

Section 10. KRS 324.090 is amended to read as follows:

(1) ***Licenses*** [~~Effective March 31, 1984, every license~~] shall expire on the thirty-first day of March of each year. The commission shall issue a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and ***payment of*** the annual fees [~~therefor, as herein~~] required. ***No applicant for renewal shall change broker affiliation between March 1 through March 31.***

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time ***nor shall failure of the mail.***

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. ***The*** [~~Such~~] license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 11. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate [~~and apart~~] from the individual or office account, in which all contract deposits ***and money belonging to others*** shall be deposited without unreasonable delay. The escrow [~~account or~~] accounts shall be maintained within the State of Kentucky ***and shall be identified to the commission in writing.***

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the ***person agreed to in writing by all parties*** [~~party making the deposit as a sum to be used toward the purchase price unless otherwise agreed in writing~~].

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) ***Upon*** [~~On~~] licensure ***and each renewal,*** the principal broker shall sign a permit giving the commission the permission to audit ***all his*** [~~the~~] escrow [~~account or~~] accounts.

(6) ***Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process*** [~~If a broker retains a contract deposit for a period exceeding ninety (90) days from the contract closing date, without securing performance, a written agreement, or a court order as required in subsection (4) of this section, the broker may release the contract deposit to one (1) or more parties to the contract by initiating a release process~~]. The release process ***shall require*** [~~requires~~] the broker to notify all parties ***at their last known address*** by certified mail that the ***contract*** deposit ***shall*** [~~will~~] be distributed to the parties specified in the letter if the parties fail to perform, enter into a written mutual release, or initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date

of the certified letter, the broker may release the deposit without penalty under this section. [~~The broker's release of this deposit pursuant to this subsection solely releases the broker from liability under this chapter, as opposed to civil liability.~~]

(7) All principal brokers ***whose companies*** [~~who~~] engage in property management [~~and whose property management activities comprise twenty-five percent (25%) or more of a real estate firm's gross annual revenue~~] shall maintain property management accounts separate [~~and apart~~] from all other accounts.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

Section 12. KRS 324.112 is amended to read as follows:

(1) No principal broker shall maintain a branch office outside a fifty (50) mile radius of the main office without having a broker managing the branch office.

(2) ***A sales associate with two (2) years experience in the real estate business, averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior, may manage a branch office inside a fifty (50) mile radius of the main office.***

(3) The licenses of all brokers and sales associates shall be kept on file in the office in which they are actively engaged and affiliated.

Section 13. KRS 324.117 is amended to read as follows:

(1) Real estate advertising shall not be false, misleading, or deceptive.[~~;~~] All ***real estate*** [~~such~~] advertising ***shall*** [~~must~~] specify the names of the real estate company or the name of the principal broker and a designation indicating that he is engaged in the real estate business. The commission ***shall promulgate administrative*** [~~may adopt policies or~~] regulations to define false, misleading, or deceptive advertising.

(2) The [~~deceased broker's~~] name ***of a deceased broker*** may remain a part of the firm name.

(3) No sales associate or non-licensed individual may have ***his*** [~~their~~] name in the firm name.

(4) Any sales associate or broker affiliated under a principal broker ***shall*** [~~must~~] advertise in the firm name or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.

Section 14. KRS 324.141 is amended to read as follows:

(1) ***If the commission enters into an agreement of reciprocity with the appropriate state or territory, and*** upon payment of the established application fees, any person who holds a real estate license in good standing issued by any state or territory which has licensing and educational standards deemed by the commission to be sufficient for minimal competence as a real estate licensee may be licensed without examination if ***the*** [~~such~~] state or territory extends similar reciprocity to licensees of this state.

(2) Every nonresident applicant shall file an irrevocable consent stating that legal actions may be commenced against the applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the commission.[~~;~~] The consent stipulating and agreeing that service of process or pleadings on the commission shall be taken and held in all courts to be as valid and binding as if service had been made upon the applicant in the state of Kentucky. Any process or pleadings served upon the commission, shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested, to the main office of the applicant against which the process or pleadings are directed.

Section 15. KRS 324.142 is amended to read as follows:

Any ***licensee*** [~~person~~] who proposes to engage in sales of a promotional nature in this Commonwealth for property located outside of this Commonwealth shall first apply to the commission for its approval before so doing, and [~~they and their salesmen~~] shall comply with ***administrative*** [~~such rules,~~] regulations, restrictions, and conditions [~~pertaining thereto as~~] the commission may impose as well as those provisions set forth in this chapter.

Section 16. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees ***shall*** [~~must~~] be submitted to the commission on forms furnished by the commission. The complaint ***shall*** [~~must~~] state facts which, if true, would make out a prima facie case against the licensee.

(2) A copy of the complaint, exhibits attached thereto, and any subsequent pleadings, ***shall*** [~~must~~] be served on the licensee defendant, by the commission, at the licensee's last known address and ***shall*** [~~must~~] show certification that there has been service by writing to the last known address.

(3) The defendant licensee ***shall*** [~~must~~] file with the commission an answer to the complaint and properly notarized, on forms secured from commission offices. The answer ***shall*** [~~must~~] be returned to the commission within twenty (20) days and a copy of the answer, exhibits attached thereto, as well as any subsequent pleadings, ***shall*** [~~must~~] be served on complainant and ***shall*** [~~must~~] show certification that there has been service by writing to the last known address. [~~Any and~~] All further pleadings in the matter filed with the commission by either party ***shall*** [~~must~~] show that a copy has been furnished to the opposing party or parties.

(4) Notice of all formal hearings ***shall*** [~~will~~] be given at least twenty (20) days prior to hearing date.

(5) The parties may have witnesses subpoenaed for hearing by written request received by the commission ten (10) days prior to the hearing .

(6) A court stenographer ***shall*** [~~will~~] be present at all formal hearings to take the proof and any party may obtain a copy of the proceedings by paying the stenographer therefor.

Section 17. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license or levy fines not to exceed five hundred dollars ($500), or both, and place any licensee on probation for a period of up to twelve (12) months or require successful completion of academic credit hours in real estate courses from an accredited or approved real estate school or issue a formal reprimand ***or order a licensee to pay restitution in an amount to be determined by the commission after a hearing, as a condition of continued licensure,*** for any of the following causes:

(a) Obtaining a license through false or fraudulent;[~~.~~]

(b) Making any substantial misrepresentation representation ***or failing to disclose known defects which substantially affect the value of the property;***[~~.~~]

(c) Making any false promises of a character likely to influence, persuade or induce;[~~.~~]

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;[~~.~~]

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;[~~.~~]

1. A real estate licensee shall not directly or indirectly buy property listed with him [~~or her~~] nor acquire an interest therein without making his [~~or her~~] true position clearly known in writing on the sales contract or offer to purchase;[~~.~~]

2. Before a real estate licensee buys, sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose any interest in the property to all parties to the transaction;[~~.~~]

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his [~~or her~~] principal broker at the time the listing was obtained. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;[~~.~~]

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of that principal broker;[~~.~~]

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his [~~or her~~] possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his [~~or her~~] client strictly in accordance with the contract of employment;[~~.~~]

(i) Paying valuable consideration to any person for services performed in violation of this chapter;[~~.~~]

(j) Entering a plea of guilty ***or an "alford" plea*** [~~or nolo contendere~~] to, or having been found guilty of, or having been convicted of, a felony and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following ***the*** [~~such~~] conviction, suspending the imposition of sentence; or soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, [~~or~~] contest, or deceptive practice, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate, or acting in the dual capacity of broker and undisclosed principal in the transaction;[~~.~~]

(k) Guaranteeing, authorizing, or permitting a person to guarantee that future profits ***shall*** [~~will~~] result from a resale of real property;[~~.~~]

(l) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property with an owner or lessor knowing that the owner or lessor had a written outstanding contract granting exclusive agency in connection with the property to another real estate broker;[~~.~~]

(m) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other [~~such~~] action;[~~.~~]

(n) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;[~~.~~]

(o) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which ***may*** [~~would~~] indicate a violation of this chapter;[~~.~~]

(p) Paying valuable consideration to any person for the name [~~or names~~] of potential sellers or buyers, except as otherwise provided in KRS 324.020(3);[~~.~~]

(q) Violating any of the provisions in this chapter ***or*** [~~of~~] any lawful order, rule, or ***administrative*** regulation made or issued under the provisions of this chapter;[~~.~~]

(r) Any other conduct that constitutes improper, fraudulent, or dishonest dealing***; or***[~~.~~]

(s) Gross negligence.

(2) Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (1)(r) of this section.

(3) No unlawful act or violation of any provision of this chapter by any associate of the principal broker may be cause for holding the principal broker primarily liable, unless the broker has knowledge of ***the*** [~~such~~] unlawful violation. The commission through means of a formal hearing may fine, suspend, or revoke the license of the principal broker for failing to exercise adequate supervision over the activities of licensed affiliates.

(4) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing. [~~A "net listing" shall be defined as a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the commission.~~]

Section 18. KRS 324.170 is amended to read as follows:

(1) The commission shall before denying an application for license or before suspending or revoking any license, set the matter down for a hearing. [~~and~~] At least twenty (20) days prior to the date set for the hearing, ***the commission*** [~~it~~] shall ***send a notice to*** [~~notify~~] the applicant or licensee in writing, which [~~said notice~~] shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel [~~in reference thereto~~]. ***The*** [~~Such~~] written notice may be served by delivery ***personal*** [~~of same personally~~] to the applicant or licensee or by mailing same by certified mail, return receipt requested, to the last known business address of ***the*** [~~such~~] applicant or licensee. If ***the*** [~~such~~] applicant or licensee ***is*** [~~be~~] a sales associate, the commission shall also notify the principal broker by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker at the hearing. The hearing on ***the*** [~~such~~] charges shall be at ***the*** [~~such~~] time and place [~~as~~] the commission ***prescribes*** [~~shall prescribe~~].

(2) All hearings ***shall*** [~~must~~] be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers ***shall not*** [~~are not authorized or empowered to~~] suspend, revoke, or fine any licensee or [~~to~~] place any licensee on probation. The function of hearing officers appointed to conduct

hearings shall be to preside at the hearing and to cause to be prepared a record of the hearing, so that the commission ***may*** [~~can~~] discharge its functions. The hearing officer shall prepare a recommended findings of fact and conclusions of law for submission to the commission.

Section 19. KRS 324.220 is amended to read as follows:

No person who has had a broker's or sales associate's license revoked shall be issued another license for five (5) years from the date of revocation. All persons seeking issuance of another license after revocation may do so only at the discretion of the commission and ***shall*** [~~must~~] retake the appropriate examination and meet all of the contemporary licensing requirements.

Section 20. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of ***the*** [~~said~~] commission shall be for four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) Vacancies occurring in 1984 shall be filled by one (1) appointment for a three (3) year term and one (1) appointment for a four (4) year term; all subsequent appointments ***shall*** [~~will~~] be for the specified four (4) year term.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments ***shall*** [~~are to~~] be made. The Governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than three (3) of any one ***(1)*** political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to draft ***administrative*** regulations, to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct [~~whenever deemed~~] necessary [~~certain~~] educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized ***administrative*** [~~rules and~~] regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes[~~, rules~~] or ***administrative*** regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use ***the*** [~~such~~] funds [~~as are~~] necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.

(7) The commission shall require all actively-licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal. The Commission shall implement this provision by promulgating an administrative regulation. The classroom hours of mandatory continuing education shall be six (6) hours per year. Two (2) of the six (6) hours shall pertain to the study of real estate law.

Section 21. KRS 324.2811 is amended to read as follows:

A member ***shall be*** [~~is~~] automatically removed from the commission and a vacancy ***shall be*** [~~is~~] created ***if*** [~~when~~]:

(1) A licensee of the commission ceases to be a broker or sales associate;

(2) A consumer member of the commission acquires a license or interest in the practice of real estate; [~~or~~]

(3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal***; or***

(4) A member ceases to be a bona fide resident of this Commonwealth.

Section 22. KRS 324.282 is amended to read as follows:

The commission, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairperson, and may do all things necessary and convenient for carrying into effect the provisions of this chapter. ***The commission***[~~, and~~] may from time to time promulgate necessary ***administrative*** [~~rules and~~] regulations, but [~~in no event shall~~] the commission ***shall not*** promulgate any ***administrative*** [~~rule or~~] regulation which in any way fixes prices or commissions.

Section 23. KRS 324.283 is amended to read as follows:

Each member of the commission shall receive as compensation ***nineteen thousand five hundred dollars ($19,500)*** [~~fifteen thousand dollars ($15,000)~~] per annum and actual and necessary expenses incurred in the performance of duties pertaining to the office.

Section 24. KRS 324.285 is amended to read as follows:

The commission shall adopt a seal with ***the*** [~~such~~] design [~~as~~] the commission ***prescribes*** [~~may prescribe~~] engraved thereon, by which it shall authenticate its proceedings. All records kept in the office of the commission under the authority of this chapter shall be open to public inspection under ***the administrative*** [~~such rules and~~] regulations as shall be prescribed by the commission.

Section 25. KRS 324.287 is amended to read as follows:

The commission shall charge and collect the following fees:

(1) Examination fee, not to exceed ***seventy-five dollars ($75)*** [~~fifty dollars ($50)~~].

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

Section 26. KRS 324.310 is amended to read as follows:

(1) ***If*** [~~When~~] any sales associate ***is*** [~~shall be~~] discharged or ***terminates*** [~~shall terminate~~] his [~~or her~~] association with the principal broker, it shall be the duty of ***the*** [~~such~~] broker to immediately deliver or mail to the commission ***the*** [~~such~~] sales associate's license ***with the release statement signed by the principal broker***. The broker shall, at the time of mailing ***the*** [~~such~~] sales associate's license to the commission, address a communication to the last known residence address of ***the*** [~~such~~] sales associate, which [~~communication~~] shall advise ***the*** [~~such~~] sales associate that his [~~or her~~] license has been delivered or mailed to the commission. A copy of ***the*** [~~such~~] communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of ***his*** [~~said~~] license from and after the date of receipt of the [~~said~~] license from ***the*** [~~said~~] broker by the commission.

(2) A licensee may place his license in escrow with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

(b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3)[~~(c)~~] At the request of the licensee and upon the meeting of requirements applicable to active licensees, ***a*** [~~such~~] license ***placed in escrow*** shall be automatically converted to an active license ***upon payment of*** [~~at~~] the established change fee.

Section 27. KRS 324.330 is amended to read as follows:

(1) Notice in writing shall be given to the commission by each licensee of any change of principal business location, a change of firm name, sales associate's transfer from one ***(1)*** principal broker to another, or a change of surname.[~~, whereupon~~] The commission shall issue a new license for the unexpired period and shall charge ***the fee as provided in KRS 324.287(6)*** [~~a fee not to exceed the original cost of licensure~~] for effecting the change on its records. This ***section*** shall apply to both brokers and sales associates.

(2) The commission shall be notified of a change of a residence address within ten (10) days.

(3) A fee ***shall*** [~~will~~] be assessed for certification of a licensee's status with the commission.

Section 28. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), ***shall*** [~~are mandated to~~] carry errors and omissions insurance to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission ***shall*** [~~must~~] be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining errors and omissions insurance independently, ***if*** [~~provided that~~] the coverage contained in ***the*** [~~such~~] policy ***and the financial condition of the insurance company*** complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, ***shall*** [~~must~~] be filed with the commission by the annual license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) ***If*** [~~Should~~] the commission ***is*** [~~be~~] unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group insurance program at a reasonable premium, not to exceed ***one hundred twenty-five dollars ($125)*** [~~one hundred dollars ($100)~~], the insurance requirement mandated by this section shall be void during the applicable contract year.

(8) The errors and omissions insurance mandated by this section shall become effective April 1, 1987.

Section 29. KRS 324.410 is amended to read as follows:

The purposes of the real estate education, research and recovery fund shall be as follows:

(1) ***If*** [~~Wherever~~] a licensee, acting in the capacity of a licensee, has been duly found guilty of fraud in the violation of one or more of the provisions of KRS 324.160, and upon the conclusion of a final order entered by the commission, or by the courts, if appealed, the commission ***may*** [~~is authorized to~~] pay to the aggrieved person or persons an aggregate amount not to exceed ***ten*** [~~twenty~~] thousand dollars ***($10,000)*** [~~($20,000)~~] against any one licensee, ***if*** [~~provided that~~] the licensee has refused to pay ***the*** [~~such~~] claim within a period of ***twenty (20)*** days of entry of a final order and ***if*** [~~provided further that~~] the amount or amounts of money in question are certain and liquidated.

(2) The commission shall maintain a minimum level of four hundred thousand dollars ($400,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the state employees' retirement system and the interest from ***the*** [~~said~~] investments shall be deposited to the credit of the real estate education, research, and recovery fund. Sufficient liquidity, ***shall*** [~~however, will~~] be maintained so that there ***shall*** [~~will~~] be money available to satisfy any and all claims which may be processed through the commission through the means of formal administrative hearing as outlined in this chapter.

(3) The commission, in its discretion, may use any and all funds in excess of the four hundred thousand dollars ($400,000) level, regardless of whether it is from the real estate education, research, and recovery fund fees or accrued interest thereon, for the following purposes:

(a) To carry out the advancement of education and research in the field of real estate for the benefit of those licensed under the provisions of this chapter and the improvement and making [~~even~~] more efficient the real estate industry [~~as such~~];

(b) To underwrite educational seminars, caravans, and other forms of educational projects for the use and benefit generally of real estate licensees;

(c) To establish a real estate chair or courses at Kentucky state institutions of higher learning for the purpose of making ***the*** [~~such~~] courses available to licensees and the general public who may seek ***them*** [~~same~~] on a college or university level;

(d) To contract for a particular research project in the field of real estate for the Commonwealth of Kentucky;

(e) To sponsor, contract for, and to underwrite [~~any and all~~] other educational and research projects of a similar nature having to do with the advancement of the real estate field in Kentucky; and

(f) To receive recommendations and to cooperate and work with the Kentucky Association of Realtors and [~~any and all~~] other real estate groups for the enlightenment and advancement of the real estate licensees of Kentucky.

(4) Within sixty (60) days after the end of each fiscal year, the commission shall mail to each licensee a statement of income and expenses of the real estate education, research, and recovery fund, the details of which have been approved by the secretary of the Finance and Administration Cabinet.

The Committee Amendment No. 1 to **HB 578** is as follows:

Amend printed copy of **HB 578** on page 28, line 19, after the word "compensation", by deleting the words "***nineteen thousand five hundred dollars***" and on line 20, by deleting the number "***($19,500)***" and by removing the bracket before the word "fifteen" and removing the bracket after the number "($15,000)", and by removing the strikethroughs.

The Committee Amendment No. 2 to **HB 578** is as follows:

Amend printed copy of **HB 578** on page 19, line 13, by placing a bracket before and after the word "representation" and striking through the word.

The Committee on Judiciary reported **HB 565**, with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 565, AN ACT relating to abortion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use ***or prescription*** of any ***instrument, medicine, drug, or any other substance or device with intent*** [~~means whatsoever~~] to terminate the pregnancy of a woman known to be pregnant with intent ***other than to increase the probability of a live birth, to preserve the life or health of the child after birth, or to remove a dead fetus*** [~~to cause fetal death~~].

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216.

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for human resources.

(4) "Department" shall mean the Department for Human Resources of the Commonwealth of Kentucky.

(5) "Fetus" shall mean a human being from fertilization until birth.

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death.

(7) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter.

(8) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother.

(9) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

Section 2. KRS 311.732 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use ***or prescription*** of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

(a) The attending physician or his agent secured the informed written consent, signed and notarized, of the minor and both parents, if available, or legal guardian;

(b) If both parents are not available, the attending physician or his agent has secured such written consent from the minor and the available parent or guardian;

(c) The minor is emancipated and the attending physician or his agent has received the informed written consent, signed and notarized, of the minor; or

(d) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent, signed and notarized, of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect and understanding of the minor; the nature, possible consequences and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;

(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the cabinet for human resources on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

Section 3. KRS 311.726 is amended to read as follows:

(1) No abortion shall be performed ***or induced*** except with the voluntary and informed ***written*** consent of the pregnant woman. ***Except in the case of a medical emergency,*** consent to an abortion is voluntary and informed only if:

(a)[~~(1)~~] The woman is provided, at ***least twenty-four (24) hours*** [~~some time~~] before the abortion ***is performed or induced***, a copy of her pregnancy test result, if ***the*** [~~such~~] test has been employed, by the physician who is to perform the abortion or his agent ***or by the referring physician***;

(b)[~~(2)~~] The physician who is to perform the abortion or his agent shall provide the woman at least ***twenty-four (24)*** [~~two (2)~~] hours before the abortion:

1.[~~(a)~~] The name of the physician who will perform the abortion;

2.[~~(b)~~] The particular medical risks associated with the particular abortion procedure to be employed ***including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies and infertility*** [~~in the medical judgment of the physician based on the particular facts of the case before him~~];

3.[~~(c)~~] The probable gestational age of the ***unborn child*** [~~fetus~~] at the time the abortion is to be performed ***and the medical risks to the pregnant woman associated with carrying her child to term***;

4.[~~(d)~~] The printed information required by KRS 311.729(1) and (2); [~~and~~]

5.[~~(e)~~] The fact that the information prescribed by KRS 311.729(3) is available to her ***and that she has a right to review*** [~~if she wishes to view~~] it;

6. That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care; and

7. That the father of the unborn child, if known, is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion;

(2)[~~(3)~~] Before submitting to the abortion, but after receiving the information required by subsection (1) of this section the woman shall certify in writing that she has received the information required by this section from the physician or his agent at least ***twenty-four (24)*** [~~two (2)~~] hours before the abortion is to be performed, that she understands it, that she consents to the abortion, and that her consent is voluntary and not the result of coercion.[~~;~~]

(3)[~~(4)~~] The requirement of this section that at least ***twenty-four (24)*** [~~two (2)~~] hours elapse between the provision of the information required and the performance of the abortion shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency which warrants nullification of the ***twenty-four (24)*** [~~two (2)~~] hour waiting period. In such a case, the physician shall describe the basis of his medical judgment that [~~such~~] an emergency exists on a form prescribed by the ***cabinet*** [~~department~~] as required by KRS 213.055;

(4)[~~(5)~~] The requirements of this section that certain information be provided the pregnant woman and that she certify her consent in writing shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency which warrants nullification of the requirements that the woman be provided with the information and that the woman certify her consent. In such a case, the physician shall ***inform the woman, prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function*** [~~describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by KRS 213.055 and, if the woman survives the abortion, the physician shall subsequently inform her of the medical indications for his judgment that a medical emergency existed and of the particular medical risks associated with the particular abortion procedure employed, the symptoms of which might become manifest in the future~~];

(5) For the purposes of subsections (3) and (4) of this section:

(a) "Medical emergency" means that condition of a pregnant woman which, in the best clinical judgment of the physician who is attending the woman, so complicates a pregnancy as to necessitate an immediate performance or inducement of an abortion to avert the death of the mother or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function.

(b) "Probable gestational age of the unborn child" means what, in the judgment of the physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

(6) Failure to provide the woman with information required by this section is prima facie evidence of failure to obtain informed consent in appropriate civil actions ***for compensatory and punitive damages***. The law of this Commonwealth shall not be construed to preclude award of punitive damages or damages for emotional distress even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of the woman to secure informed consent to any form of medical treatment, including abortion.

Section 4. KRS 311.729 is amended to read as follows:

(1) The ***Cabinet for Human Resources*** [~~department~~] shall[~~, within sixty (60) days of July 15, 1982,~~] publish printed materials that may be easily comprehended in all languages used by significant portions of the population of this Commonwealth which are designed to inform ***the pregnant woman*** [~~concerned persons~~] of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including ***the support obligations of the father of a child who is born live and*** reputable adoption agencies. The materials shall include a ***geographically-indexed*** comprehensive list of the agencies available, the services they offer, ***including available Medical Assistance Benefits for prenatal care, childbirth, and neonatal care*** and a description of the manner in which they might be contacted ***including telephone***

numbers and addresses. The Cabinet for Human Resources may include on the materials a toll-free twenty-four (24) hour a day telephone number which may be called to obtain, orally, the list and description of agencies available in the locality of the caller.

(2) The materials shall include the following paragraph:

"There are many public and private agencies willing and able to help you to carry your child to term, and assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The Commonwealth of Kentucky strongly urges you to contact them before making a final decision about abortion."

(3) The materials shall describe the probable anatomical and physiological characteristics of the ***unborn child at two (2) week gestational increments from the time a woman can be known to be pregnant to full term*** [~~fetus at the various gestational ages at which abortion might be performed~~], including any relevant information on the possibility of ***the unborn child's*** [~~fetal~~] survival. The materials shall be scientifically objective and shall not be ***judgmental*** [~~prejudicial~~]. ***The materials shall include only accurate scientific information about the unborn child at the various gestational ages. The materials shall be printed in a typeface large enough to be clearly legible.***

(4) Nothing in this section shall be construed to limit the right of the physician or of personnel associated with him to express to the woman their own views concerning the validity or importance of the materials prescribed by this section.

(5) The materials required under this section shall be available at no cost from the ***cabinet*** [~~department~~] upon request and in appropriate number to any person, facility, or hospital. Distribution of the printed materials shall not be required until they are made available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person upon whom an abortion has been performed without complying with Section 3 of this Act, the father of the unborn child who was the subject of such an abortion, or the grandparent of the aborted unborn child may maintain an action against the person who performed the abortion for punitive damages and treble whatever actual damages the plaintiff may have sustained. Any person upon whom an abortion has been attempted without complying with Section 3 of this Act may maintain an action against the person who has attempted to perform the abortion for punitive damages and treble whatever actual damages the plaintiff may have sustained.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In every proceeding or action brought under Section 5 of this Act, the court shall rule whether the anonymity of any woman upon whom an abortion is performed or attempted shall be preserved from public disclosure if she does not give her consent to that disclosure. The court, upon motion, shall make a ruling on this matter and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel, and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms, to the extent necessary to safeguard her identity from public disclosure. Each nondisclosure order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under Section 5 of this Act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

The Committee Substitute to **HB 565** is as follows:

HB 565, AN ACT relating to abortion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 and Section 8 of this Act the following definitions apply unless the context otherwise requires:

(1) "Abortion" means the use of any instrument, medicine, drug or any other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than

to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) "Medical emergency" means that condition which, on the basis of the physician's best clinical judgment, so complicates a pregnancy as to necessitate an immediate abortion to avert the death of the mother or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function.

(3) "Probable gestational age of the unborn child" means what, in the judgment of the physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No abortion shall be performed or induced except with the voluntary and informed written consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed, if and only if:

(1) The woman is provided with a copy of her pregnancy test result by the physician who is to perform the abortion, or by the referring physician, at least twenty-four (24) hours before the abortion is to be performed or induced; and

(2) The woman is told the following by the physician who is to perform the abortion or by the referring physician, at least twenty-four (24) hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;

(c) The probable gestational age of the unborn child at the time the abortion is to be performed; and

(d) The medical risks associated with carrying her child to term; and

(3) The woman is informed, by the physician or his agent, at least twenty-four (24) hours before the abortion:

(a) That medical assistance benefits may be available for prenatal care, childbirth and neonatal care;

(b) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and

(c) That she has the right to review the printed materials described in Section 3 of this Act, relating to printed information. The physician or his agent shall orally inform the woman the materials have been provided by the state of Kentucky and that they describe the unborn child and list agencies which offer alternatives to abortion. If the woman chooses to view the materials, copies of them shall be furnished to her. The physician or his agent may disassociate themselves from the materials, and may comment or refrain from comment on them as they choose; and

(4) The woman certifies in writing, prior to the abortion, that the information described in subsections (1) to (3) of this section has been furnished her, and that she has been informed of her opportunity to review the information referred to in subsections (1) to (3) of this section; and

(5) Prior to the performance of the abortion, the physician who is to perform or induce the abortion or his agent receives a copy of the written certification prescribed by subsection (4) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall publish in English, within sixty (60) days after the effective date of this Act, the following easily comprehensible printed materials:

(a) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description

of the services they offer, and a description of the manner, including telephone numbers in which they might be contacted, or, at the option of the Cabinet for Human Resources, printed materials including a toll-free, twenty-four (24) hour a day telephone number which may be called to obtain, orally, a list and description of agencies in the locality of the caller and of the services they offer; and

(b) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two (2) week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival. The materials shall also include clear photographs of the unborn child taken at monthly gestational increments. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages.

(2) The materials shall be printed in a typeface large enough to be clearly legible.

(3) The materials required under this section shall be available at no cost from the Cabinet for Human Resources upon request and in appropriate number to any person, facility, or hospital.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

When a medical emergency compels the performance of an abortion, the physician shall inform the woman, prior to the abortion if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or for which a twenty-four (24) hour delay will create grave peril of immediate and irreversible loss of major bodily function.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person upon whom an abortion has been performed without complying with Section 2 of this Act, the father of the unborn child who was the subject of such an abortion, or the grandparent of the aborted unborn child may maintain an action against the person who performed the abortion for punitive damages and treble whatever actual damages the plaintiff may have sustained. Any person upon whom an abortion has been attempted without complying with Section 2 of this Act may maintain an action against the person who has attempted to perform the abortion for punitive damages and treble whatever actual damages the plaintiff may have sustained.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

In every proceeding or action brought under Section 5 of this Act, the court shall rule whether the anonymity of any woman upon whom an abortion is performed or attempted shall be preserved from public disclosure if she does not give her consent to that disclosure. The court, upon motion, shall make a ruling on this matter and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel, and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms, to the extent necessary to safeguard her identity from public disclosure. Each nondisclosure order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under Section 5 of this Act shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Section 7. KRS 311.720 is amended to read as follows:

Except as provided in Sections 1 to 6 of this Act, as used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death.

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216.

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for human resources.

(4) "Department" shall mean the Department for Human Resources of the Commonwealth of Kentucky.

(5) "Fetus" shall mean a human being from fertilization until birth.

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death.

(7) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter.

(8) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother.

(9) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

Section 8. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 11.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Human Resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) ***Anyone who purposefully, knowingly or recklessly performs or attempts to perform an abortion without complying with Sections 2 to 4 of this Act commits a Class A misdemeanor. No penalty may be assessed against the woman upon whom the abortion is performed or attempted to be performed. No penalty for failure to comply with Section 2 or that portion of Section 2 requiring a written certification that the woman has been informed of her opportunity to review the information referred to in Section 2 may be assessed unless the Cabinet for Human Resources has made the printed materials available at the time the physician or his agent is required to inform the woman of her right to review them*** [~~Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor~~].

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(18) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(19) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(21) Any person who violates KRS 311.652 or any rule or regulation of the Board of Medical Licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a violation and on conviction shall be subject to a penalty up to one thousand dollars ($1,000). Each day a violation is continued after the first conviction shall be a separate offense.

Section 9. The following KRS sections are repealed:

311.729 Information on alternatives.

311.726 Voluntary and informed consent of woman — Certificate — Emergencies — Civil liability of physician.

The Committee Amendment No. 1 to the Committee Substitute to **HB 565** is as follows:

Amend printed copy of **HB 565/HCS** on page 5, line 26 through page 7, line 13, to delete the same;

and on page 7, line 13, to delete "7" and to insert in lieu thereof "5",

and on page 7, line 14, to delete "***6***" and to insert in lieu thereof "***4***"

and on page 8, line 21, to delete "8" and to insert in lieu thereof "6",

and on page 1, line 3, to delete "***6***" and to insert in lieu thereof "***4***"

and on page 1, line 3, to delete "***8***" and insert in lieu thereof "***6***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 565** is as follows:

Amend printed copy of **HB 565/HCS** on page 5, line 2, delete "***the***" and insert in lieu thereof "***an***";

and on page 5, line 6, to delete "***the***" and to insert in lieu thereof "***an***".

Orders of the Day

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 219, HB 303, HB 153, HB 386, HB 437** and **HB 472** have been posted for passage in the Orders of the Day for February 27, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 113**

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 13**, by Representative Donnermeyer:

Amend printed copy of **SB 13/GA** on page 3, line 9, by deleting the brackets around and strikethroughs from "by official order"; and

On page 3, line 21, by deleting "***the city or county***"; and

On page 3, line 21, after "***within***" by inserting the following:

"***its own jurisdiction***"; and

On page 5, line 19, by deleting the brackets around and strikethroughs from ", by official order,".

Floor Amendment No. 1 to the Committee Substitute to **HB 455**, by Representative Cyrus:

Amend printed copy of **HB 455/HCS** on page 2, line 10, by placing a bracket after "service." and by deleting the strikethroughs on "No", and by inserting after "No" the words "***state officer or employee, political party, candidate, or committee for a candidate***" and by bracketing "person", and by deleting the strikethroughs on "shall"; and

On page 2, line 11, by deleting the strikethroughs on "solicit any political" and by bracketing "assessment, subscription,"; and

On page 2, line 12, by deleting all strikethroughs; and

On page 2, line 13, by deleting the strikethroughs and bracket, and by inserting after "service", "***, but the employee may voluntarily make a political contribution of money or service***".

Orders of the Day (Continued)

HB 466, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 3 to **HB 466**. Agreed.

Representative B. Smith moved that **HB 466**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 25, 1992 roll call on **HB 466** - Appendix.)

HB 466, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 466**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 212 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 212** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 25, 1992 roll call on **HB 212** - Appendix.)

HB 212 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 212** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 339, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 339**. Agreed.

Representative Callahan moved that **HB 339**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 5. (See February 25, 1992 roll call on **HB 339** - Appendix.)

HB 339, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 339**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **SB 64** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1992 roll call on **SB 64** - Appendix.)

SB 64 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **SB 64** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 384 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 384** be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See February 25, 1992 roll call on **HB 384** - Appendix.)

HB 384 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 384** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 389**. Agreed.

Representative Farrow moved that **HB 389**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1992 roll call on **HB 389** - Appendix.)

HB 389, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 389**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 95** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:34 p.m.)

Orders of the Day (Continued)

SB 12 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **SB 12** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 25, 1992 roll call on **SB 12** - Appendix.)

SB 12 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 12** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 6, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 6** is as follows:

Amend printed copy of **HB 6/GA** on page 2, line 25, after "***services***" by adding "***, or the availability of same***"; and

On page 3, line 1, after "***;***" by deleting "***or***"; and

On page 3, line 3, after "***students***" and before the period "." by adding "***; or***

(e) Are reminders and notices of meetings and activities of organizations of which the person called is a member or a subscribed consumer of the services of the organization, or are made to a person with whom there is an existing business relationship".

Representative Long moved that the House concur in Senate Amendment No. 1 to **HB 6**. Agreed.

Representative Long moved that **HB 6**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 25, 1992 roll call on **HB 6** - Appendix.)

HB 6, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 6**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Richards moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 125, by Representative Richards: A RESOLUTION in honor of and admiration for Mitchell Berman.

Representative Richards moved the adoption of the following **HR 125**:

HR 125, A RESOLUTION in honor of and admiration for Mitchell Berman.

WHEREAS, Mitchell Berman, a native of Warren County, Kentucky, was born on April 9, 1982; and

WHEREAS, Mitchell Berman is the loving son of Louis and Bonnie Berman and the adored brother of Betsey Berman; and

WHEREAS, Mitchell Berman, until December, 1990, attended Richpond Elementary School in Bowling Green, Kentucky, and was in the gifted and talented program; and

WHEREAS, Mitchell Berman, beginning December 31, 1990, has suffered excruciatingly painful, life-threatening conditions resulting in severe brain damage; and

WHEREAS, Mitchell Berman has experienced a long recuperation period involving physical, occupational, and speech therapy programs in order to reacquire all basic skills; and

WHEREAS, Mitchell Berman, as of the first week in January, 1992, was successful in making the honor roll at Richpond Elementary School in Bowling Green, Kentucky; and

WHEREAS, Mitchell Berman will be the personal page of Representative Jody Richards this date, Tuesday, February 25, 1992;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body salutes Mitchell Berman for his accomplishments through the silent power of rigorous perseverance in obtaining a victory very few have experienced.

Section 2. That this honorable body wishes for Mitchell Berman, and his devoted family, success in all future endeavors.

Section 3. That when the House of Representatives adjourns this day, Tuesday, February 25, 1992, it does so in honor of and admiration for Mitchell Berman.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Mitchell Berman, 5595 Three Springs Road, Bowling Green, Kentucky 42101.

HR 125 was adopted by voice vote.

Representative Richards moved that a call of the roll be taken to show co-sponsors of **HR 125**.

On the roll call the vote was yeas 86—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Kerr, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Toby, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates. Nays 0.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 116, HB 148, HB 234** and **HB 265** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:41 p.m.)

HB 116, HB 148, HB 234 and **HB 265** were delivered to the Senate and signed by the President. Delivered to the Governor on February 25, 1992 at 2:52 p.m.

Motions, Petitions and Communications (Continued)

Representative Ark moved the adoption of the following **HR 119**:

HR 119, A RESOLUTION honoring Kentucky's 1992 Young Woman of the Year, Elizabethtown High School Senior, Marnie Levee.

WHEREAS, under the sponsorship of Coca-Cola, America's Young Woman of the Year Program salutes those young women who will play an important role in shaping the future; and

WHEREAS, this program selects outstanding high school seniors from among thousands taking part in all fifty states, from whence local winners advance to state finals which determine the fifty candidates for the national title; and

WHEREAS, the national finals are held this summer in Mobile, Alabama; and

WHEREAS, Marnie Levee's selection is based on her scholastic achievement, presence, composure, fitness, creativity, interviewing skills and talent in the performing arts; and

WHEREAS, Marnie Levee's many honorable activities include being chosen as Mayor, Outstanding Citizen and Majority Floor Leader at Girls State, Student Council Secretary; Journalism Staff; Speech and Drama Captain and Assistant Coach; Fellowship of Christian Athletes Co-captain; and French Club President; and

WHEREAS, Marnie Levee's commendable community service includes Patriotic Civilian Services; Habitat for Humanity; Church Youth Council; Lincoln Trail Youth Salute; Students Against Drunk Drivers, Treasurer; and Youth Celebration Director; and

WHEREAS, the people of the Commonwealth are proud to be represented by Marnie Levee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails Kentucky's 1992 Young Woman of the Year, Marnie Levee.

Section 2. That this honorable body hails Marnie Levee as an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 3. That the Clerk of the House transmit three copies of this Resolution to Beth M. Nickell, Coordinator for Continuing Education, Elizabethtown Community College, Elizabethtown, Kentucky 42701, for distribution.

HR 119 was adopted by voice vote.

Representative Ark moved that a call of the roll be taken to show co-sponsors of **HR 119**.

On the roll call the vote was yeas 78—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, P. Clark, Coleman, Crupper, Curd, Deskins, Farley, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Lile, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Overstreet, Palumbo, Pritchett, Ravenscraft, Richards, Richardson, Ridley, Riggs, Riner, Sanders, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates. Nays 0.

Representative Stumbo moved that the three day posting requirement be waived on **HB 163**, **HB 333**, **HB 492**, **HB 515**, **HB 518**, **HCR 49** and **HB 198**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 89**, by Representative Lear:

Amend printed copy of **HB 89/HCS2** on page 11, following line 2 and before line 3, by inserting the following:

"***(12) All existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, and real and personal property of the Cabinet for Economic Development, as of the effective date of this Act, shall be under the authority and control of the board.***"

On page 156, following line 18, by inserting the following:

"Section 78. Until the board appoints members of the committee of the Kentucky Economic Development Finance Authority, as provided in Section 17 of this Act, the committee shall be composed of members of the boards of directors of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority in existence on or before the effective date of this Act; however, no later than October 1, 1992, the appointments to the committee, as prescribed in Section 17 of this Act, shall be made by the board."

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 659, by Representative Arnold: AN ACT relating to limitation of actions.

HB 660, by Representative Arnold: AN ACT relating to retirement.

HB 661, by Representative Arnold: AN ACT relating to criminal charges against mentally ill persons.

HB 662, by Representatives Arnold, Gray, P. Clark, McElroy, Todd, Gedling, Jensen, Zimmerman, Gregory, Sanders, Ward, Cyrus and Johnson: AN ACT relating to county clerk fees.

HB 663, by Representative Keith: AN ACT relating to jury fees and the raising of revenue for same.

HB 664, by Representatives Keith, Nunn, Allen, Mack, Mason, Hatcher, Turner, Ackerson, Lile, Todd, Jensen, Walker, Williams, Freibert, Ford, J. Harper, Noland, Bryant, Sanders, Mullinix, Bowling, Crupper and T. Smith: AN ACT relating to student housing.

HB 665, by Representative Clarke: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

HB 666, by Representatives Crupper, Gedling, Nunn, Mack, Curd, Williams, Napier, Keith, Cyrus, Turner, Worthington, Reinhardt, Arnold, Lyne, Mullinix, Todd, Bronger, Butler, Maggard, Ford, Zimmerman, Mason, Altman, Gregory, L. Clark, Collins, Farley, Yates, Sanders, Hourigan, Gee, T. Smith, Hancock, Coleman, Rapier, Kerr, P. Clark, Castleman, Gray and Ravenscraft: AN ACT relating to tobacco.

HB 667, by Representatives Gedling and Brown: AN ACT relating to property valuation administration.

HB 668, by Representative Stumbo: AN ACT relating to fees and declaring an emergency.

HB 669, by Representative Stumbo: AN ACT relating to workers' compensation.

HB 670, by Representative Sheehan: AN ACT relating to the Kentucky Athletic Commission.

HB 671, by Representative Little: AN ACT relating to workers' compensation.

HB 672, by Representatives Burch and Bruce: AN ACT relating to the Commission of Health Economics Control in Kentucky.

HB 673, by Representative Northup: AN ACT relating to school access.

HB 674, by Representative Jones: AN ACT relating to statutory liens.

HB 675, by Representatives Gedling and Crupper: AN ACT relating to county properties.

HB 676, by Representative Walker: AN ACT proposing an amendment to the Constitution of Kentucky relating to the joint election of the Governor and Lieutenant Governor.

HR 126, by Representative Kerr: A RESOLUTION honoring members of the Simon Kenton High School Technology Student Association.

HR 127, by Representative Geveden: A RESOLUTION adjourning in loving memory of Callie Rollins Pollock.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HCR 118, HJR 121, SB 147, SB 148, SB 149, SB 150, HB 625, SB 159, HB 363, HB 422, HB 524, HB 535, HB 537, HB 610, HB 624, HB 542, HB 561, HB 562, HB 563, HB 581, HB 589, HB 606**

Banking and Insurance: **HB 510, HB 497, HB 597**

Health and Welfare: **SB 211**

Natural Resources and Environmental Protection: **HB 511, HB 593, HB 614, HB 621, HB 622, HB 623, HB 632**

Elections and Constitutional Amendments: **HB 534, HB 230, SB 55**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 525, HB 553**

Motions, Petitions and Communications (Continued)

Representative Walker moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walker moved that he be recorded as voting "nay" on **HCR 22**. Agreed.

Representative Williams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **SB 12**. Agreed.

Representative Ravenscraft moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ravenscraft moved that he be recorded as voting "yea" on **SB 64**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 64, HB 84, HB 327, HB 390, HB 458, HB 480, HB 488, HB 505, HB 466**. Agreed.

The following members requested that their names be added as co-sponsors to Bills and Resolutions:

HB 198, HB 455, HB 519, HB 541, HB 543, HCR 78, Representative Ravenscraft; **HB 604**, Representative Nelson; **HB 614**, Representatives Bentley, Nelson.

Announcements

The following meetings were announced:

Appropriations and Revenue, 9:00 a.m., February 26, 1992, Room 125.

Counties and Special Districts, 8:30 a.m., February 26, 1992.

Labor and Industry, 12 Noon, February 26, 1992.

Education, 10:00 a.m., February 26, 1992.

Judiciary, 3:15 p.m., February 25, 1992.

The following meeting was cancelled:

Economic Development, February 26, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, February 26, 1992.

On the roll call the vote was yeas 88—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, K. Harper, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 6—Bronger, Casebier, Hatcher, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 26, 1992

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bowling.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 25, 1992 be dispensed with and the same approved. Agreed.

Representative Bryant moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Senate Message

Announcing passage of **SB 3**, **SB 114**, **SB 145**, **SB 151**, **SB 192**, **SB 206**, **SB 210**, **SB 219**, **SCR 65**, **HB 62** with Senate Amendment, **HB 196** with Senate Amendments, **HB 258** with Senate Amendments, **HB 27**, **HB 29**, **HB 194**, **HB 205** and **HB 239**. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 677, by Representative Riggs: AN ACT relating to school employees.

HB 678, by Representative Richardson: AN ACT relating to Medicare supplement insurance.

HB 679, by Representatives Sanders, Gedling, Strong: AN ACT relating to logo signs.

HR 128, by Representative Noland: A RESOLUTION celebrating the one hundred and twenty-one years Lee County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 666**

Appropriation and Revenue: **HB 665**, **HB 668**, **HB 656**, **HB 662**

Business Organizations and Professions: **SB 117**

Counties and Special Districts: **HB 667**, **HB 674**, **HB 675**, **HB 661**

Education: **HB 657**, **HB 664**, **HB 670**, **HB 673**

Elections and Constitutional Amendments: **HB 676**

Health and Welfare: **HB 672**, **SB 170**, **SJR 67**

Judiciary: **HB 663**, **HB 659**, **SB 172**

Labor and Industry: **HB 669**, **HB 671**

Natural Resources and Environmental Protection: **SB 189**, **SB 191**

State Government: **HB 660**, **SB 63**

Transportation: **HB 658**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 353**, **HJR 85**, **HJR 86** and **HJR 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 353, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that [~~such~~] tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Feed, including premixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(9) Machinery for new and expanded industry;

(10) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, ***1994*** [~~1992~~];

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(14) On-farm facilities used exclusively for raising chickens. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(15) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(20) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, ***1994*** [~~1992~~];

(21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the Federal Food Stamp Program; and

(22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes.

HJR 85, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees; and,

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1992-1994 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1992-94 Judicial Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1992-94 Judicial Branch Budget Bill or the 1992-94 Judicial Branch Budget Memorandum.

HJR 86, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees; and,

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1992-1994 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1992-94 Legislative Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1992-94 Legislative Branch Budget Bill or the 1992-94 Legislative Branch Budget Memorandum.

HJR 87, A JOINT RESOLUTION relating to the budget process.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process which is primarily codified as KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum which shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and shall explain such changes in detail sufficient to convey the intent of the appropriations committees; and,

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory budget process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That any mandates, directives, or initiatives contained in the 1992-1994 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. That the staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1992-94 State/Executive Branch Budget Memorandum which do not alter the sense, meaning, or effect of the 1992-94 State/Executive Branch Budget Bill or the 1992-94 State/Executive Branch Budget Memorandum.

The Committee on Counties and Special Districts reported **HB 504**, with Committee Substitute attached thereto, and **HB 506**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 504, AN ACT relating to corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.055 is amended to read as follows:

(1) The ***Governor shall appoint, by January 1, 1993, a Continuing Jail Standards Revision Committee of six (6) members, composed of a representative from the Corrections Cabinet; a county jailer selected from a list of three (3) provided by the Kentucky Jailers Association; a magistrate or commissioner, serving on a fiscal court, selected from a list of three (3) provided by the Kentucky Magistrates/Commissioners Association; a county judge/executive selected from a list of three (3) provided by the Kentucky County Judge/Executives Association; a member of the House of Representatives; and a member of the Senate. Appointment shall be for two (2) years; members may be reappointed; and the Governor shall fill all vacancies on the committee in the same manner as he makes original appointments.***

(2) The committee shall select a chairman from its members.

(3) The committee shall be attached to the Corrections Cabinet for purposes of administrative support, but the committee members shall be reimbursed for their expenses by the organizations which they represent pursuant to law or regulation, if any, applicable to their positions.

(4) The cabinet shall promulgate, pursuant to KRS Chapter 13A, administrative regulations approved by the committee establishing minimum standards for jails. No administrative regulation shall be promulgated which is more stringent than standards mandated by the federal government. The [~~cabinet shall:~~

~~(a) By January 1, 1983, adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. Such~~]standards shall include, but not be limited to, rules governing the following areas:

(a)[~~1.~~] Health and safety conditions;

(b)[~~2.~~] Fire safety;

(c)[~~3.~~] Jail operations, recordkeeping and administration;

(d)[~~4.~~] Curriculum of basic and continuing annual training for jailers and jail personnel;

(e)[~~5.~~] Custody, care and treatment of prisoners;

(f)[~~6.~~] Medical care; and

(g)[~~7.~~] Jail equipment, renovation and construction.

[~~(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary.~~]

(5)[~~(c)~~] ***The cabinet shall*** provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(6)[~~(2)~~] The cabinet may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 2. KRS 441.064 is amended to read as follows:

(1) The cabinet shall employ ***the*** [~~such~~] jail consultants, inspectors, and other employees [~~as are~~] necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The cabinet shall inspect each jail biannually and may inspect jails more frequently.

(3) The cabinet shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the cabinet deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) ***Following an inspection of a jail, the cabinet shall notify the jailer and the fiscal court by certified mail of any deficiencies which are discovered and documented. If the deficiencies are related to health or safety, the notification shall be sent within ten (10) working days, excluding weekends and holidays.*** The cabinet shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

Section 3. KRS 441.075 is amended to read as follows:

(1) ***If*** [~~Whenever~~] the cabinet finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the secretary of the cabinet, or his designee, shall ***recommend*** [~~order~~] that the violation be corrected immediately.

(2) [~~In order to enforce an order made pursuant to subsection (1) of this section,~~] The secretary may ***recommend that***:

(a) [~~Order~~] The jail or portions thereof [~~to~~] be vacated and closed until the violation is eliminated.

(b) [~~Order~~] The jail [~~to~~] cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) [~~Order~~] The state contribution made pursuant to KRS 441.206 [~~to~~] be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) ***The fiscal court shall have the sole authority to close its jail, except that the secretary may order a jail or portions thereof to be vacated and closed when there is an immediate and substantial danger to the life or safety of the prisoners. When that danger has ceased to exist, the jail or the portion thereof that was closed shall be reopened at the discretion of the fiscal court. A fiscal court may appeal an order of the secretary under this subsection to the Circuit Court of the county in which the jail is located*** [~~An order issued under this section shall be in writing, incorporating the findings of the cabinet and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of said notification, request in writing a public hearing before the secretary of the cabinet or his designee on the matters covered by said order. Upon the hearing, the secretary of the cabinet or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The secretary of the cabinet or his designee may issue, modify, or repeal the order at the conclusion of the hearing~~].

Section 4. KRS 441.206 is amended to read as follows:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:

(a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received;

(b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and

(c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.

(2) ***(a)*** Payments of the state contribution for jail operating expenses shall be made monthly by the Corrections Cabinet to the county treasurer.

(b) If a county's jail is closed and the county contracts with another county for the incarceration of prisoners, the state shall reimburse the sending county the actual per diem amount paid the receiving county for housing sentenced misdemeanor prisoners, but no more than the fee set in KRS 431.215(4), and any medical costs. No county receiving any prisoner from another county for incarceration under a contractual agreement shall charge an amount in excess of the fee specified in KRS 431.215(4) and any medical costs. The state shall also reimburse the sending county a one-time transportation fee of twenty-five dollars ($25) for every arrest if the inmate is transported to a jail in another county. These costs shall be deducted from the county's entitlement pursuant to [~~The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in~~] subsection (1) of this section.

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city, or another county for the incarceration of prisoners and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055, within twelve (12) months of the close of the fiscal year in which ***the*** [~~such~~] funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury.

(4) [~~In no event shall~~] A county ***shall not*** receive less than twenty-four thousand dollars ($24,000) pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.

Section 5. KRS 71.060 is amended to read as follows:

(1) The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer.

(2) The jailer shall be responsible for the appointment and removal of jail personnel ***and the jailer may dismiss his deputies at any time without cause.***

(3) [~~provided, however, that~~] The number of jail personnel shall be set by the fiscal court in the jail budget. The fiscal court shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.055.

(4) The fiscal court shall be liable for deficiencies in jail equipment, buildings, and curtilage only after notification in writing by the jailer or a Corrections Cabinet inspector, and the fiscal court shall not be liable for negligence of duty or wrongful acts of the jailer or jail employees.

Section 6. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail, or other institution, two (2) certified copies [~~thereof~~] shall be furnished [~~forthwith~~] to the sheriff who shall execute the ***sentence*** [~~same~~] by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail, or institution of confinement and making a written return [~~thereof~~] in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the State Treasury a fee per day beginning on the ***date of conviction, or upon the date of entry of a guilty plea*** [~~fifth day following the day on which judgment was rendered~~] and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

(3) When the judgment imposes a sentence of death, the defendant shall be delivered to the penitentiary within ten (10) days after final sentencing.

(4) A county may contract with the Corrections Cabinet for the incarceration of prisoners who have been sentenced to serve a term in the penitentiary. The county shall receive a minimum fee of twenty-two dollars ($22) per day for each prisoner.

Section 7. KRS 441.610 is amended to read as follows:

(1) KRS 441.625 to 441.695 is intended solely to provide an additional and alternative method of constructing, reconstructing, improving, or repairing and financing jails and appurtenant facilities for any local government in this state to the end that such projects expedite the provision of safe and proper facilities

by a local government for the incarceration of prisoners as defined by KRS 441.005. Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting a local government from providing for the construction, reconstruction, improvement, or repair and financing of a jail and appurtenant facilities as may be otherwise provided by law.

(2) Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting two (2) or more local governments from entering into a cooperative agreement for the purpose of participating with the authority in providing for the construction, reconstruction, improvement, or repair and financing of a jail and appurtenant facilities for the use and benefit of all local governments agreeing to ***the*** [~~such~~] cooperative undertaking***, but the authority shall determine the number and location of regional jails and regional detention centers, as authorized by KRS 441.625.***

(3) Subsection (2) of this section is intended solely as an alternative method to KRS 65.210 to 65.300.

Section 8. KRS 441.625 is amended to read as follows:

The authority ***may*** [~~is hereby authorized and empowered~~]:

(1) ***Determine the number and location of regional jails and regional juvenile detention centers, in order to prevent duplication of effort and unnecessary costs;***

(2) [~~To~~] Construct, reconstruct, improve, or repair any jail and appurtenant facilities in any local government in this state, as may be determined by the authority and provided for in an agreement or agreements;

(3)[~~(2)~~] [~~To~~] Acquire and to convey real estate and any improvements and buildings and facilities located thereon, for which a project is undertaken, and in ***the*** [~~such~~] manner and under ***the*** [~~such~~] terms as may be provided by agreement;

(4)[~~(3)~~] [~~To~~] Issue revenue bonds, and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(5)[~~(4)~~] [~~To~~] Combine for financing purpose any two (2) or more projects;

(6)[~~(5)~~] [~~To~~] Lease as lessor any project to any local government as lessee, pursuant to the terms and provisions of a lease;

(7)[~~(6)~~] [~~To~~] Employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employees and agents [~~as may be~~] necessary in the judgment of the authority, and to fix their compensation;

(8)[~~(7)~~] [~~To~~] Make and enter into ***the*** [~~such~~] contracts and agreements with other parties [~~as may be~~] necessary and incidental to the performance of its duties and execution of its powers under KRS 441.625 to 441.695;

(9)[~~(8)~~] [~~To~~] Establish and enforce rules, regulations, and specifications in respect to any project undertaken by the authority, except during any period when ***the*** [~~such~~] powers are assigned to a lessee pursuant to a lease agreement. ***The***[~~, provided that such~~] rules, regulations, and specifications shall be consistent with state laws and regulations pertaining to jails;

(10)[~~(9)~~] [~~To~~] Receive, accept and expend funds or other contributions from any source, both public and private, for or in aid of any project undertaken by the authority;

(11)[~~(10)~~] [~~To~~] Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the authority;

(12)[~~(11)~~] [~~To~~] Make matching fund grants not exceeding fifty thousand dollars ($50,000) to local governments from funds determined by the authority to be available to it for ***the*** [~~such~~] purposes, upon ***the*** [~~such~~] terms and according to ***the*** [~~such~~] criteria [~~as~~] the authority shall in its discretion determine; and

(13)[~~(12)~~] [~~To~~] Do all things and perform all acts desirable, necessary, and proper to carry out and implement the powers expressly granted to the authority by KRS 441.625 to KRS 441.695***, including recommending the promulgation of administrative regulations and enactment of legislation.***

Section 9. KRS 441.615 is amended to read as follows:

(1) There is created and established within the Finance and Administration Cabinet a Kentucky Local Correctional Facilities Construction Authority, composed of ten (10) members who shall be:

(a) The secretary of the Finance and Administration Cabinet, or his designee;

(b) The secretary of the Corrections Cabinet, or his designee;

(c) The ***designee*** [~~president~~] of the Kentucky Jailers Association[~~, or his designee~~];

(d) The ***designee*** [~~president~~] of the Kentucky County Judges/Executive Association[~~, or his designee~~];

(e) The ***designee*** [~~president~~] of the Kentucky Association of Counties[~~, or his designee~~];

(f) The ***designee*** [~~president~~] of the Kentucky Magistrates and Commissioners Association[~~, or his designee~~];

(g) Two (2) citizen members appointed by the Governor; and

(h) Two (2) members of the General Assembly appointed by the Governor.

(2) The ex officio members shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the Governor.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the Governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The ten (10) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but ***shall be*** [~~are~~] entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of finance. The members of the authority shall elect a vice-chairman and secretary from their membership.

(8) The secretary of ***the*** Finance ***and Administration Cabinet*** shall designate an employee of his cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in ***the*** [~~such~~] amount [~~as~~] the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium [~~therefor~~] to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain ***there*** [~~therein~~] complete records of the authority's actions and proceedings, as public records open to inspection. The Finance and Administration Cabinet ***shall*** [~~is directed and authorized to~~] provide ***the*** [~~such~~] funds, staff assistants, facilities, and materials [~~as may be~~] required by the authority in the conduct of its duties and functions. The secretary of ***the*** Finance ***and Administration Cabinet*** may require the Corrections Cabinet to share in the expenses incurred by the Finance and Administration Cabinet in maintaining and operating offices of the authority.

Section 10. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary, or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of ***the*** [~~such~~] facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated.[~~, provided that~~] The authority's contribution from its funds***,*** [~~(~~]excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of ***the*** [~~such~~] project***,***[~~)~~] shall not exceed ninety percent (90%) of ***the*** [~~such~~] cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and [~~such~~] other steps [~~as may be~~] necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining, and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government, including the requirement that all new jail construction projects receiving any authority funding shall provide an agreed upon number of beds for state prisoners at a rate set by the secretary of the Corrections Cabinet but which [~~in no case~~] shall ***not*** be less than seventy-five percent (75%) of the actual daily cost of maintaining a prisoner***. The permissive nature of this section notwithstanding, no county benefiting from an agreement reached pursuant to this section shall incarcerate sentenced federal prisoners in lieu of sentenced state prisoners***;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser thereof, the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth therein and in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute ***the*** [~~such~~] lease and file the original or a signed counterpart thereof in the office of the authority, and the Secretary of State of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, ***the*** [~~such~~] funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of ***the*** [~~such~~] project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement***,*** or repair of projects determined by the authority to qualify for grants from the authority.

SECTION 11. A NEW SECTION OF KRS 431.510 TO 431.545 IS CREATED TO READ AS FOLLOWS:

If the jailer prepares or accepts a bail bond pursuant to KRS 30A.060(3), he shall collect a fee of five dollars ($5) from the defendant. The jailer shall furnish the defendant with a written receipt for the fee. By the tenth day of each month, the jailer shall:

(a) Report the previous month's bonding fees to the county treasurer; and

(b) Submit the previous month's bonding fees to the county treasurer for inclusion in the jail fund.

Section 12. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Corrections Cabinet for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Corrections Cabinet with directions that the sentence be carried out according to law.

(4) The Corrections Cabinet shall develop a classification system, including procedures for review and reclassification, to assess the custody level of all Class D felons. The Corrections Cabinet shall classify

each Class D felon within fourteen (14) days of conviction and review the classification at a minimum of every six (6) months, or with cause.

(5) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to a term of imprisonment, he shall, when the jailer determines that space is available, serve that term in a county jail, unless the classification or reclassification process indicates:

(a) That the felon has signed a request to serve time in a state prison;

(b) That the felon is classified other than minimum or medium security;

(c) That the felon is an escape risk;

(d) That the felon is dangerous to himself or others;

(e) That the felon has an out-of-state felony charge or conviction;

(f) That the jailer has reason to believe the felon would be a security risk; or

(g) That the felon needs protective custody beyond that which can be provided in the county jail.

(6) Class D felons, conditional releasees, and conditional parolees, serving their time in a local jail, shall be considered state prisoners, and the Corrections Cabinet shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to the provisions of KRS 431.215(4). For controlled-intake prisoners, the per diem payments shall begin on the date prescribed in KRS 431.215(2). For all others, including parole violators, felony probation violators, and felony shock probation violators, the payment shall begin the day they are lodged in the jail.

(7) Controlled-intake prisoners, excluding the Class D felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing. All others, including parole violators, felony probation violators, and felony shock probation violators, shall be transferred to the state institution within forty-five (45) days from the day they were incarcerated in the county jail.

Section 13. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of death or confinement in the penitentiary, county jail or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of death or confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the State Treasury a fee per day beginning on [~~the fifth day following~~] the day on which judgment was rendered and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

The Committee Substitute to **HB 504** is as follows:

HB 504, AN ACT relating to corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.055 is amended to read as follows:

(1) The ***Department of Corrections*** [~~cabinet~~] shall:

(a) By January 1, 1983, adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. ***These*** [~~Such~~] standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;

2. Fire safety;

3. Jail operations, recordkeeping and administration;

4. Curriculum of basic and continuing annual training for jailers and jail personnel***, including training relating to juvenile holding facilities***;

5. Custody, care, and treatment of prisoners;

6. Medical care; and

7. Jail equipment, renovation, and construction***;***[~~.~~]

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. ***The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and***

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The ***department*** [~~cabinet~~] may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 2. KRS 441.064 is amended to read as follows:

(1) The ***department*** [~~cabinet~~] shall employ ***the*** [~~such~~] jail consultants, inspectors, and other employees [~~as are~~] necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The ***department*** [~~cabinet~~] shall inspect each jail biannually and may inspect jails more frequently.

(3) The ***department*** [~~cabinet~~] shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the ***department*** [~~cabinet~~] deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) ***Following an inspection of a jail, the department shall notify the jailer and the fiscal court by certified mail of any deficiencies which are discovered and documented. If the deficiencies are related to health or safety, the notification shall be sent within ten (10) working days, excluding weekends and holidays.*** The ***department*** [~~cabinet~~] shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

Section 3. KRS 441.075 is amended to read as follows:

(1) ***If*** [~~Whenever~~] the ***department*** [~~cabinet~~] finds that a violation of its regulations, or the laws or other state regulations pertaining to the protection of persons and property, exists in any jail, the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~], or his designee, shall order that the violation be corrected immediately. ***In order to enforce an order made pursuant to this subsection, the commissioner may order the jail to cease housing Class D felons.***

(2) ***No jail that was ordered by the Department of Corrections prior to the effective date of this Act to be closed or to operate other than as a full-service facility shall operate as a full-service facility unless it is granted a certificate of occupancy by the Department of Corrections*** [~~In order to enforce an order made pursuant to subsection (1) of this section, the secretary may:~~

~~(a) Order The jail or portions thereof to be vacated and closed until the violation is eliminated.~~

~~(b) Order The jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.~~

~~(c) Order The state contribution made pursuant to KRS 441.206 to be used, in whole or in part, to contract with another county for the incarceration of prisoners~~].

(3) An order issued under this section shall be in writing, incorporating the findings of the ***department*** [~~cabinet~~] and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of

said order. The county jailer or county judge/executive may within seventy-two (72) hours of receipt of ***the*** [~~said~~] notification, request in writing a public hearing before the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee on the matters covered by ***the*** [~~said~~] order. Upon the hearing, the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee may issue, modify, or repeal the order at the conclusion of the hearing.

(4) The fiscal court shall have the sole authority to close its jail, except that the commissioner may order a jail or portions thereof to be vacated and closed when there is an immediate and substantial danger to the life or safety of the prisoners. When that danger has ceased to exist, the jail or the portion thereof that was closed shall be reopened at the discretion of the fiscal court.

Section 4. KRS 71.060 is amended to read as follows:

(1) The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer.

(2) The jailer shall be responsible for the appointment and removal of jail personnel***, and the jailer may dismiss his deputies at any time with cause.*** [~~provided, however, that~~] The number of jail personnel shall be set by the fiscal court in the jail budget. The fiscal court shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.055.

(3) The fiscal court shall be liable for deficiencies in jail equipment, buildings, and curtilage only after notification in writing by the jailer or the Department of Corrections, and the fiscal court shall not be liable for negligence of duty or wrongful acts of the jailer or jail employees.

Section 5. KRS 441.610 is amended to read as follows:

(1) KRS 441.625 to 441.695 is intended solely to provide an additional and alternative method of constructing, reconstructing, improving, or repairing and financing jails and appurtenant facilities for any local government in this state to the end that such projects expedite the provision of safe and proper facilities by a local government for the incarceration of prisoners as defined by KRS 441.005. Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting a local government from providing for the construction, reconstruction, improvement, or repair and financing of a jail and appurtenant facilities as may be otherwise provided by law.

(2) Nothing in KRS 441.625 to 441.695 shall be construed as prohibiting two (2) or more local governments from entering into a cooperative agreement for the purpose of participating with the authority in providing for the construction, reconstruction, improvement, or repair and financing of a jail and appurtenant facilities for the use and benefit of all local governments agreeing to ***the*** [~~such~~] cooperative undertaking***, but the authority shall determine the number and location of regional jails and regional detention centers, as authorized by KRS 441.625.***

(3) Subsection (2) of this section is intended solely as an alternative method to KRS 65.210 to 65.300.

Section 6. KRS 441.625 is amended to read as follows:

The authority ***may*** [~~is hereby authorized and empowered~~]:

(1) ***Determine the number and location of regional jails and regional juvenile detention centers, in order to prevent duplication of effort and unnecessary costs;***

(2) [~~To~~] Construct, reconstruct, improve, or repair any jail and appurtenant facilities in any local government in this state, as may be determined by the authority and provided for in an agreement or agreements;

(3)[~~(2)~~] [~~To~~] Acquire and [~~to~~] convey real estate and any improvements and buildings and facilities located thereon, for which a project is undertaken, and in ***the*** [~~such~~] manner and under ***the*** [~~such~~] terms as may be provided by agreement;

(4)[~~(3)~~] [~~To~~] Issue revenue bonds, and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(5)[~~(4)~~] [~~To~~] Combine for financing purpose any two (2) or more projects;

(6)[~~(5)~~] [~~To~~] Lease as lessor any project to any local government as lessee, pursuant to the terms and provisions of a lease;

(7)[~~(6)~~] [~~To~~] Employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employees and agents [~~as may be~~] necessary in the judgment of the authority, and to fix their compensation;

(8)[~~(7)~~] [~~To~~] Make and enter into ***the*** [~~such~~] contracts and agreements with other parties [~~as may be~~] necessary and incidental to the performance of its duties and execution of its powers under KRS 441.625 to 441.695;

(9)[~~(8)~~] [~~To~~] Establish and enforce rules, regulations, and specifications in respect to any project undertaken by the authority, except during any period when ***the*** [~~such~~] powers are assigned to a lessee pursuant to a lease agreement. ***The***[~~, provided that such~~] rules, regulations, and specifications shall be consistent with state laws and regulations pertaining to jails;

(10)[~~(9)~~] [~~To~~] Receive, accept and expend funds or other contributions from any source, both public and private, for or in aid of any project undertaken by the authority;

(11)[~~(10)~~] [~~To~~] Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the authority;

(12)[~~(11)~~] [~~To~~] Make matching fund grants not exceeding fifty thousand dollars ($50,000) to local governments from funds determined by the authority to be available to it for ***the*** [~~such~~] purposes, upon ***the*** [~~such~~] terms and according to ***the*** [~~such~~] criteria [~~as~~] the authority shall in its discretion determine; and

(13)[~~(12)~~] [~~To~~] Do all things and perform all acts desirable, necessary, and proper to carry out and implement the powers expressly granted to the authority by KRS 441.625 to KRS 441.695***, including recommending the promulgation of administrative regulations and enactment of legislation.***

Section 7. KRS 441.615 is amended to read as follows:

(1) There is created and established within the Finance and Administration Cabinet a Kentucky Local Correctional Facilities Construction Authority, composed of ten (10) members who shall be:

(a) The secretary of the Finance and Administration Cabinet, or his designee;

(b) The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~], or his designee;

(c) The ***designee*** [~~president~~] of the Kentucky Jailers Association[~~, or his designee~~];

(d) The ***designee*** [~~president~~] of the Kentucky County Judges/Executive Association[~~, or his designee~~];

(e) The ***designee*** [~~president~~] of the Kentucky Association of Counties[~~, or his designee~~];

(f) The ***designee*** [~~president~~] of the Kentucky Magistrates and Commissioners Association[~~, or his designee~~];

(g) Two (2) citizen members appointed by the Governor; and

(h) Two (2) members of the General Assembly appointed by the Governor.

(2) The ex officio members shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the Governor.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the Governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The ten (10) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but ***shall be*** [~~are~~] entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of finance. The members of the authority shall elect a vice-chairman and secretary from their membership.

(8) The secretary of ***the*** Finance ***and Administration Cabinet*** shall designate an employee of his cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in ***the*** [~~such~~] amount [~~as~~] the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium [~~therefor~~] to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain ***there*** [~~therein~~] complete records of the authority's actions and proceedings, as public records open to inspection. The Finance and Administration Cabinet ***shall*** [~~is directed and authorized to~~] provide ***the*** [~~such~~] funds, staff assistants, facilities, and materials [~~as may be~~] required by the authority in the conduct of its duties and functions. The secretary of ***the*** Finance ***and Administration Cabinet*** may require the ***Department of*** Corrections [~~Cabinet~~] to share in the expenses incurred by the Finance and Administration Cabinet in maintaining and operating offices of the authority.

Section 8. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the ***Department of*** Corrections [~~Cabinet~~] for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the ***Department of*** Corrections [~~Cabinet~~] with directions that the sentence be carried out according to law.

(4) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), the sentence shall be served in a state institution. Counties unable to immediately comply with the provisions of this subsection shall be granted a waiver in the discretion of the commissioner of the Department of Corrections.

(5) The jailer of a county in which a Class D felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

(6) Class D felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).

(7) State prisoners, excluding the Class D felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

HB 506, AN ACT relating to audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.810 is amended to read as follows:

(1) ***(a)*** Any fiscal court, ***other primary legislative body of a county,*** county clerk, or sheriff may employ a certified public accountant to audit the books, accounts, and papers of the county or his office in lieu of the audit conducted by the State Auditor of Public Accounts required by KRS 43.070, if the Auditor of Public Accounts declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

(b) In the case of a documented emergency requiring an immediate audit which the Auditor of Public Accounts cannot complete within the requested deadline, the Auditor of Public Accounts shall engage or authorize the fiscal court or other primary legislative body of a county, the county clerk, or sheriff to engage a certified public accountant to complete the emergency audit. A certified public accountant may be engaged to conduct an emergency audit only after guaranteeing in writing to the Auditor of Public Accounts that the audit and audit report will be finished within the deadline originally requested of the Auditor of Public Accounts. The fiscal court or other primary legislative body or the elected official, as the case may be, shall bear the full cost of any audit conducted pursuant to this paragraph. Audits conducted pursuant to this paragraph shall be subject to the provisions of subsections (4) and (5) of this section.

(2) A fiscal court which has elected to employ a certified public accountant pursuant to subsection (1)***(a)*** of this section shall notify the State Auditor in writing by July 31 following the fiscal year to be audited of the name of the certified public accountant it has employed. The fiscal court shall bear the full cost of any audit conducted pursuant to this section. An elected official who has elected to employ a certified public accountant pursuant to subsection (1)***(a)*** of this section shall:

(a) Notify the fiscal court and the State Auditor in writing by January 30 following the calendar year to be audited of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office; and

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office.

(3) Any contract with a certified public accountant entered into pursuant to ***subsection (1)(a) of*** this section shall specify the following:

(a) The audit of a county official shall be completed by August 1 following the calendar year being audited, and the audit of a county budget shall be completed by February 1 following the fiscal year being audited;

(b) The certified public accountant shall forward a copy of the fee officer audit report and management letters to the county official, fiscal court of the county, and the Auditor of Public Accounts upon completion of the audit, and no later than August 1 following the calendar year being audited;

(c) The certified public accountant shall forward a copy of the county budget audit report and management letters to the fiscal court of the county and the Auditor of Public Accounts upon completion of the audit and no later than February 1 following the fiscal year being audited; and

(d) The Auditor of Public Accounts shall have the right to review the certified public accountant's work papers before and after the release of the audit.

(4) After preliminary review of the certified public accountant's work papers, should discrepancies be found, the Auditor of Public Accounts shall notify the fiscal court or fee official of the discrepancies. Should the certified public accountant not correct such discrepancies prior to the release of the audit, the Auditor's office may conduct its own audit to verify the findings of the certified public accountant's report. If such audit is conducted, the expenses to said county or county official, as directed by KRS 43.070(4) shall be construed as an allowable expense of office. If the audit conducted by the Auditor of Public Accounts discloses discrepancies in the audit by the certified public accountant, the findings of the Auditor of Public Accounts shall be deemed official for purposes of collection of money owed the county pursuant to KRS 64.820.

(5) No later than February 1 following the fiscal year being audited, or August 1 following the calendar year being audited, the fiscal court ***or other primary legislative body*** or county official shall submit the accountant's written report to the Governor, the General Assembly, the Attorney General, the State Librarian and county attorney of his county. In addition the fiscal court ***or other primary legislative body*** or the official shall send the report to the newspaper having the largest paid circulation in the county, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

(6) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above-named officials be audited yearly.

The Committee Amendment No. 1 to **HB 506** is as follows:

Amend printed copy of **HB 506** on page 2, by deleting lines 3 through 7, and by substituting therefor:

"***primary legislative body shall bear the full cost of any county audit conducted pursuant to this paragraph. The county clerk or the sheriff shall bear the full cost of any audit of his office conducted pursuant to this paragraph, from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office. Audits conducted pursuant to this paragraph shall be subject to the provisions of subsections (4) and (5) of this section.***"

The Committee on Education reported **HB 171**, with Committee Amendment attached thereto, and **HB 375**, with Committee Amendment and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 171, AN ACT relating to education, and providing for the creation of an interagency commission on educational and job training coordination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Interagency Commission on Educational and Job Training Coordination is hereby created. Its membership shall be composed of the following individuals, serving in an ex-officio capacity:

(a) The chairman of the Council on Higher Education;

(b) The executive director of the Council on Higher Education;

(c) The chairman of the State Board for Elementary and Secondary Education;

(d) The commissioner of the Department of Education;

(e) The chairman of the State Board for Adult and Technical Education;

(f) The secretary of the Workforce Development Cabinet;

(g) The chairman of the Board for the Kentucky Higher Education Assistance Authority; and

(h) The executive director of the Kentucky Higher Education Assistance Authority.

(2) Members shall serve by virtue of their office. The chairman of the commission shall be chosen annually by a simple majority vote of the members. A quorum for conducting business shall be one-half (1/2) of the members plus one (1). The chair shall rotate annually, so that no person or agency holds the chairmanship in successive years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The commission members may decide among themselves those voluntary actions which enhance state efforts to properly educate, train, and reeducate Kentucky's present and future workforce, to the end that all adult Kentuckians who are willing and able to work are employed within the Commonwealth in good jobs of their choosing.

(2) Specific responsibilities of the commission shall include implementation of:

(a) Programs to provide maximum flexibility for students in transferring from one (1) school or college to another, including changes which minimize or eliminate loss of credit;

(b) Aggressive efforts to expand the Work/Study Scholarship Program available through the Kentucky Higher Education Assistance Authority;

(c) Continuing exploration of cooperation between businesses and state agencies, and businesses and university or vocational school job training programs; and

(d) Scheduling of meetings of the commission, to be held at least three (3) annually, to accomplish these purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) Administrative expenses of the commission will be borne by the respective participating agencies, as a part of each agency's normal budget for basic operations. In each year, the agency represented by the chairman shall provide any necessary staff support required, including provision of a secretary, whose duties shall include the taking of minutes and distribution thereof. The agency represented by the chairman shall make arrangements for meeting facilities.

(2) All meetings will be held in Frankfort, Kentucky upon the call of the chairman or a majority vote of the membership. In the initial year, the Secretary of the Workforce Development Cabinet shall serve as chairperson.

The Committee Amendment No. 1 to **HB 171** is as follows:

Amend printed copy of **HB 171** on page 1, line 16, after ";" by adding "***and***";

On page 1, line 18, by deleting "***; and***" and inserting in lieu thereof ".";

On page 1, by deleting line 19 in its entirety;

On page 2, by deleting line 1 in its entirety.

HB 375, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.350 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the fund to support education excellence in Kentucky:

(1) Employs and compensates all teachers for not less than one hundred eighty-five (185) days. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall prescribe procedures by which this requirement may be reduced during any year for any district which employs teachers for less than one hundred and eighty-five (185) days, in which case the eligibility of a district for participation in the public school fund shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and administrative regulations of the State Board for Elementary and Secondary Education. If the school term is less than one hundred eighty-five (185) days for any reason not approved by the State Board for Elementary and Secondary Education on recommendation of the chief state school officer, the eligibility of a district for participation in the public school fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Includes no nonresident pupils in its average daily attendance, except by written agreement with the district of the pupils' legal residence. ***If an agreement cannot be reached, either board may appeal to the chief state school officer for settlement of the agreement. The chief state school officer shall have thirty (30) days to establish the terms of agreement. Either board may appeal the chief state school officer's decision to the State Board for Elementary and Secondary Education. The State Board for Elementary and Secondary Education shall have sixty (60) days to approve or amend the agreement of the chief state school officer.*** This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital;

(5) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same program for girls;

(6) Any school district which fails to comply with subsection (5) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the Department of Education after a hearing requested by any person within the school district. A district under this subsection shall, at such hearing, have an opportunity to show inability to comply.

The Committee Amendment No. 1 to **HB 375** is as follows:

Amend printed copy of **HB 375** on page 3, after line 6, by adding the following:

"Section 2. Whereas, it is important for the financial stability of school districts to have an accurate count of average daily attendance and it is important for districts to know the fiscal impact of enrolling nonresident students, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

The Committee Title Amendment to **HB 375** is as follows:

Amend printed copy of **HB 375** by amending the title to read as follows:

"AN ACT relating to education and declaring an emergency."

The Committee on Education reported **HB 285**, with Committee Amendment attached thereto, **HB 332**, **HB 349**, **HB 426**, **HB 519**, with Committee Substitute attached thereto, and **HB 592**, with Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to revocation of certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.120 is amended to read as follows:

(1) ***(a)*** Any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees may be revoked by the Education Professional Standards Board for immorality, misconduct in office, incompetency, violation of the school laws of the state or administrative regulations adopted by the State Board for Elementary and Secondary Education, willful neglect of duty, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification.

(b) The board may revoke an individual's certificate if his certificate was revoked or voluntarily surrendered in another state on the same or similar grounds provided in this subsection.

(2) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, Social Security number, position name, and position code of any certified school employee in his district whose contract is terminated or not renewed, for cause; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who is otherwise known to have engaged in such actions or conduct as might reasonably be expected to warrant consideration for certificate revocation. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, which are based on immorality, misconduct in office, incompetency, violation of school law or administrative regulation adopted by the State Board for Elementary and Secondary Education, willful neglect of duty, or falsification of certification credentials, and shall forward copies of all relevant documents and records in his possession.

(c) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent and shall have the right to file a written rebuttal which shall be attached to the district superintendent's report.

(3) (a) Upon taking action to initiate proceedings to revoke a certificate, the Education Professional Standards Board shall provide the certified employee a written statement specifying in detail the charge against him and setting a time and date for a hearing. The hearing shall take place no less than twenty (20) days nor more than forty-five (45) days after the certified employee receives the statement of charges. ***A continuance of the hearing may be granted in accordance with administrative regulations promulgated by the board.***

(b) The hearing may be public or private at the discretion of the certified employee. The certified employee may be represented by counsel. The presence of witnesses may be required upon subpoenas issued by the chief state school officer at the request of the chairman of the Education Professional Standards Board or the certified employee. Each witness shall be required to take an oath or affirmation prior to testimony.

(c) ***The hearing shall be conducted by the full board, a panel of the board, a single member of the board, or a person appointed as hearing officer by the board*** [~~Upon hearing the evidence, the Education Professional Standards Board may by a majority vote render its decision or may defer its action for no more than five (5) days~~].

(d) If the hearing is conducted by less than the full board, the panel or hearing officer shall submit written findings and a recommended order to the board for its consideration and action upon completion of the hearing.

(4) In all cases where the Education Professional Standards Board is unable, after reasonable diligence, to notify a certified individual of a scheduled hearing on pending charges, the hearing shall be continued generally until the individual can be notified or presents himself for hearing. The charges shall not be dropped in the interim, and the fact of pending revocation charges shall be appropriately noted in the individual's certification file.

(5) Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation.

The Committee Amendment No. 1 to **HB 285** is as follows:

Amend printed copy of **HB 285** on page 1, line 19 after the word "***subsection.***" insert the following language:

"***Such revocation by the board shall be in accordance with the procedures outlined in subsection (2).***"; and

On page 3, line 25 after the first word "***board***" delete all new language on that line; and

On page 4, line 4 after the word "***by***" delete all new language; and

On page 4, line 5 delete all new language in its entirety and insert in lieu thereof "***a hearing officer, the officer shall submit***".

HB 332, AN ACT relating to teacher's retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Any participating member of the Kentucky Teachers' Retirement System employed by a local school district who has at least twenty-five (25) years of Kentucky service may receive additional service credit equal to ten (10%) of his actual service credit earned while participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 161.623.

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance.

(3) The employee shall submit a notification of retirement as required in KRS 161.600 no earlier than the effective date of this Act and no later than September 30, 1992, except that the provisions of this section shall not apply in the case of disability or if the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the local superintendent. An employee retiring under the conditions set out in this section shall be subject to KRS 161.780. The employee may void his decision to retire under the provisions of this section if he does so in writing to the retirement system and upon application and agreement of the local superintendent no later than September 30, 1992.

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee and the cost shall be paid by the Commonwealth of Kentucky. The money shall be added to the retirement allowance account of the Kentucky Teachers' Retirement System and shall not be considered accumulated contributions of the member.

(5) An employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed earning more than the Federal Social Security Act maximum for a retired person with an agency participating the Kentucky Teachers' Retirement System within a period of time equal to the amount of additional service he received.

(6) The Kentucky Teachers' Retirement System shall notify all eligible employees of the provisions of this Act.

(7) The purpose of this Act is to promote education reform and provide additional resources for local school districts. No discrimination is intended by this Act against any present or future employees. It is the intent of this Act to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

HB 349, AN ACT relating to school district budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held and expended by the district board, subject to the provisions of law and administrative regulations of the State Board for Elementary and Secondary Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates. The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The State Board for Elementary and Secondary Education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for salaries paid from the base funding is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year.

(3) ***A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.***

(4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the State Board for Elementary and Secondary Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the State Board for Elementary and Secondary Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(5)[~~(4)~~] If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the State Board for Elementary and Secondary Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(6)[~~(5)~~] If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection ***(4)***[~~(3)~~] of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(7)[~~(6)~~] In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the State Board for Elementary and Secondary Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

HB 426, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required.

(2) (a) All appointments, promotions and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the State Board for Elementary and Secondary Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position.

(e) Effective July 1, 1991, no relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district prior to July 13, 1990, and who is certified for the position he holds, as long as the superintendent is holding office on July 1, 1991, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative ***who is employed in the principal's school shall be evaluated by the principal. These relatives shall be evaluated by a district administrator*** [~~shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph~~].

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

HB 519, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act, the following definitions shall apply:

(a) "Noncertified employee" means a person employed in a public school for whom certification is not required as a basis for employment and who has been employed in the same school district for more than two (2) successive school years.

(b) "Seniority" means the period of time from initial employment in the school district to the present time, including all approved leave, both paid and unpaid.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of a school district shall enter into a written contract of employment with noncertified employees. The contract may be terminated by the superintendent only for:

(a) Insubordination;

(b) Immoral conduct or conduct unbecoming an employee;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty;

(e) Abandonment of position or failure to maintain licensing or other standards required by the state or federal governments.

(2) Charges under subsections (1)(a) and (d) of this section shall be supported by written records of employee performance prepared by the superintendent or other supervisory personnel of the school district.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the employee with a written statement specifying in detail the charge upon which termination of the contract is based. The employee may, within ten (10) days after receiving the charge, notify the chief state school officer and the superintendent of his intention to answer the charge. Upon failure of the employee to give notice within ten (10) days, the dismissal shall be final.

(4) Upon receiving the employee's notice of intention to answer the charge, the chief state school officer shall appoint a three (3) member tribunal, consisting of one (1) noncertified employee, one (1) public school administrator, and one (1) lay person, none of whom shall reside in the school district. The chief state school officer shall name the chairman of the tribunal and set the date and time for the hearing. The hearing shall take place no less than twenty (20) days nor more than thirty (30) days after the employee receives the statement of charges.

(5) The hearing before the tribunal shall be conducted in accordance with procedures established by KRS 161.790(5) and regulations adopted for the conduct of hearings pursuant to that statute.

(6) Upon hearing both sides of the case, the tribunal may by majority vote render its decision or may defer its action for not more than five (5) days. The tribunal may dismiss some or all of the charges, issue a sanction less severe than recommended by the superintendent, or terminate the contract.

(7) The superintendent may suspend the employee pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If the decision of the tribunal is against termination of the contract, the suspended employee shall be paid full salary for the period of suspension.

(8) The employee may appeal the decision of the tribunal under procedures identical to those set forth for teachers in KRS 161.790(8). Either the employee or the superintendent may appeal the action of the Circuit Court to the Court of Appeals. If appeal is not made within thirty (30) days from receipt of the final decision of the tribunnal, the decision shall be final.

(9) As an alternative to termination of an employee's contract, the superintendent upon notifying the board and providing written notification to the employee of the charge, may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set forth in subsection (3) of this section shall apply, except to a private reprimand. The employee may appeal the action of the superintendent, except a private reprimand, in the same manner as established in subsections (4) to (8) of this section. Upon completion of a suspension period, an employee shall be reinstated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

If decreased enrollment of pupils, suspension of schools, territorial changes affecting the school district or consolidation, merger, or centralization of schools or school districts, shortage of funds or required compliance with operational guidelines issued by the State Department of Education necessitates a reduction of the number of noncertified school employees, the superintendent may lay off employees within the affected job classifications. Within these classifications, employees with the least seniority shall be laid off first. When a position becomes open, the laid off employee from the job classification for that position with greatest seniority, shall be recalled and given preference over all other applicants. Written notice of recall shall be sent by certified mail, return receipt requested, to the last known address of the noncertified employee. Upon receipt of the notice, the noncertified employee shall have five (5) working days to return to work. Failure to return to work within that time period relieves the superintendent of the obligation to rehire or recall that employee.

The Committee Substitute to **HB 519** is as follows:

HB 519, AN ACT relating to school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act, the following definitions shall apply:

(a) "Noncertified employee" means a person employed in a public school for whom certification is not required as a basis for employment and who has been employed in the same school district for more than two (2) successive school years.

(b) "Seniority" means the period of time from initial employment in the school district to the present time, including all approved leave, both paid and unpaid.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of a school district shall enter into a written contract of employment with noncertified employees. The contract may be terminated by the superintendent only for:

(a) Insubordination;

(b) Immoral conduct or conduct unbecoming an employee;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty;

(e) Abandonment of position or failure to maintain licensing or other standards required by the state or federal governments.

(2) Charges under subsections (1)(a) and (d) of this section shall be supported by written records of employee performance prepared by the superintendent or other supervisory personnel of the school district.

(3) No contract shall be terminated except upon notification of the board by the superintendent. Prior to notification of the board, the superintendent shall furnish the employee with a written statement specifying in detail the charge upon which termination of the contract is based. The employee may, within ten (10) days after receiving the charge, notify the chief state school officer and the superintendent of his intention to answer the charge. Upon failure of the employee to give notice within ten (10) days, the dismissal shall be final.

(4) The State Board for Elementary and Secondary Education shall promulgate an administrative regulation establishing an administrative appeal process. Costs associated with providing a hearing officer or tribunal to hear the appeal shall be the responsibility of the local school district.

(5) The superintendent may suspend the employee pending final action to terminate the contract, if, in his judgment, the character of the charge warrants the action. If the decision of the administrative appeal is against termination of the contract, the suspended employee shall be paid full salary for the period of suspension.

(6) The employee may appeal the decision of the administrative appeal under procedures identical to those set forth for teachers in KRS 161.790(8). Either the employee or the superintendent may appeal the action of the Circuit Court to the Court of Appeals. If appeal is not made within thirty (30) days from receipt of the final decision of the administrative appeal, the decision shall be final.

(7) As an alternative to termination of an employee's contract, the superintendent upon notifying the board and providing written notification to the employee of the charge, may impose other sanctions, including suspension without pay, public reprimand, or private reprimand. The procedures set forth in subsection (3) of this section shall apply, except to a private reprimand. The employee may appeal the action of the superintendent, except a private reprimand, in the same manner as established in subsections (4) and (6) of this section. Upon completion of a suspension period, an employee shall be reinstated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

If decreased enrollment of pupils, suspension of schools, territorial changes affecting the school district or consolidation, merger, or centralization of schools or school districts, shortage of funds or required compliance with operational guidelines issued by the State Department of Education necessitates a reduction of the number of noncertified school employees, the superintendent may lay off employees within the affected job classifications. Within these classifications, employees with the least seniority shall be laid off first. When a position becomes open, the laid off employee from the job classification for that position with greatest seniority, shall be recalled and given preference over all other applicants. Written notice of recall shall be sent by certified mail, return receipt requested, to the last known address of the noncertified employee. Upon receipt of the notice, the noncertified employee shall have five (5) working days to return to work. Failure to return to work within that time period relieves the superintendent of the obligation to rehire or recall that employee. The laid off employee shall be responsible for notifying the district if there is a change in address.

HB 592, AN ACT relating to the Office of Education Accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken by the State Board for Elementary and Secondary Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476.

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education no later than October 1, 1991. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting, contracting for, or requesting periodic program and fiscal audits as necessary. The Office of Education Accountability may request an audit from the State Committee for School District Audits as established in KRS 156.265.

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the State Board for Elementary and Secondary Education, and make recommendations for action to the Legislative Research Commission.

5. Conduct studies and analyze available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the Legislative Research Commission as directed by the Commission.

7. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which if accurate may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, records of the office of education accountability relating to duties and responsibilities under subsection (2) of this section shall be confidential until released by the office of education accountability and shall not be subject to disclosure upon the order of a court or other agency with subpoena power. This section shall be retroactive to July 13, 1990.

Section 2. Section 1 of this Act shall be deemed retroactive to July 13, 1990, and shall apply to subpoenas issued since that date on any matter covered by KRS 7.410.

Section 3. Whereas subpoenas have already been issued on matters which are under investigation and for which no determinations have been made as provided by law, and whereas premature disclosure of the complaints and information developed by investigations might injure innocent parties and might prejudice ongoing investigations, an emergency is declared and this Act shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **HB 592** is as follows:

Amend printed copy of **HB 592** to delete title appearing thereon and insert:

"AN ACT relating to the confirmation of a privilege for investigations conducted by the Office of Education Accountability."

The Committee on Judiciary reported **HB 203**, with Committee Amendment attached thereto, **HB 479** and **HB 550** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT relating to abortion facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) ***"Abortion facility" means any place in which an abortion is performed.***

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A.

(3)[~~(2)~~] "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(4)[~~(3)~~] "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(5)[~~(4)~~] "Cabinet" means the Cabinet for Human Resources.

(6)[~~(5)~~] "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(7)[~~(6)~~] "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning July 15, 1990, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(8)[~~(7)~~] "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter.

(9)[~~(8)~~] "Commission" means the Commission for Health Economics Control in Kentucky.

(10)[~~(9)~~] "Committee" means the Kentucky Health Care Cost Containment Advisory Committee.

(11)[~~(10)~~] "Formal review process" means the ninety (90) day certificate of need review conducted by the commission.

(12)[~~(11)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ***abortion facilities,*** ambulance services, nonemergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(13)[~~(12)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(14)[~~(13)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum, except that the term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning July 15, 1990, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.

(15)[~~(14)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(16)[~~(15)~~] "Nonclinically related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices.

(17)[~~(16)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(18)[~~(17)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentalityincluding a municipal corporation of a state.

(19)[~~(18)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet or the commission;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet or the commission regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet or the commission;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the commission or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the commission.

(20)[~~(19)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

(21)[~~(20)~~] "State health plan" means the document prepared triennially, updated annually, and duly adopted by the state health planning council and approved by the Governor.

(22)[~~(21)~~] "State health planning council" means the Council for Health Services established under KRS 194.090.

(23)[~~(22)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility.

(24)[~~(23)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility.

(25)[~~(24)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation.

(26)[~~(25)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person.

(27)[~~(26)~~] To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area.

(28)[~~(27)~~] "To establish" means to construct, develop, or initiate a health facility.

(29)[~~(28)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract.

(30)[~~(29)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to ***abortion facilities as defined in subsection (1) of Section 1 of this Act;*** family care homes; state veterans' nursing homes; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling,

pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply, after September 15, 1991, to licensed acute care hospitals, as defined by administrative regulation, in counties with more than 3,000 acute care hospital beds, except as these provisions relate to rehabilitation beds and long term care beds.

(3) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts ***except for physicians' offices which are also abortion facilities as defined under subsection (1) of Section 1 of this Act***;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts ***except for physicians' offices which are also abortion facilities as defined under subsection (1) of Section 1 of this Act***; except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(4) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

Section 3. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) Establish by administrative regulation under KRS Chapter 13A reasonable application fees for licenses and issue other administrative regulations necessary for the proper administration of the licensure function;

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; [~~and~~]

(c) Establish licensure standards and procedures to ensure safe, adequate, and efficient ***abortion facilities,*** health facilities, and health services. These regulations, under KRS Chapter 13A, shall include, but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel, and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services, and level of care***; and***

(d) Compile in a single document, maintain, and make available to abortion facilities and the public during regular business hours, all licensure standards and procedures issued under KRS Chapter 13A related to abortion facilities.

(2) The cabinet may authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated by the commission and the cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, no later than September 1, 1992, and subject to the provisions of KRS Chapter 13A, issue administrative regulations providing licensure standards and procedures for abortion facilities. The cabinet shall begin enforcing the issued administrative regulations on March 1, 1993.

(2) Any person operating an abortion facility for which a license is required under this chapter may apply for the license prior to March 1, 1993.

(3) Each abortion facility shall report monthly to the cabinet such information as may be required by the cabinet in its administrative regulations for each abortion performed in the facility.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Each abortion facility shall make a written agreement with a licensed acute care hospital which will accept, treat, and is capable of treating patients with unforeseen complications related to an abortion facility procedure.

(2) If unforeseen complications arise prior to or during an abortion facility procedure, the patient shall be transferred to a licensed acute care hospital with whom the abortion facility has a written agreement as provided under subsection (1) of this section.

(3) Each abortion facility shall make a written agreement with a licensed local ambulance service for the transport of any emergency patient, subject to subsection (1) of this section, to the licensed acute care hospital.

(4) Any written agreement between an abortion facility and an acute care hospital and a local ambulance service shall be filed with the cabinet.

Section 6. KRS 214.450 is amended to read as follows:

As used in KRS 214.452 to 214.466, unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS ***216B.015(12)*** [~~216B.015(11)~~] which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS ***216B.015(13)*** [~~216B.015(12)~~] and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under KRS 214.460 and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General, upon certification by the Secretary of the Cabinet for Human Resources, shall seek injunctive relief in a court of proper jurisdiction to prevent violations of the provisions of KRS Chapter 216B regarding abortion facilities or the rules, regulations, and standards promulgated in furtherance thereof in cases where other administrative penalties and legal sanctions imposed have failed to prevent or cause a discontinuance of any such violation.

Section 8. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility ***or abortion facility*** without first obtaining a license or continues to operate a health facility ***or abortion facility*** after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any existing boarding home which does not register within six (6) months of July 13, 1990, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered. New boarding homes which begin operations after July 13, 1990, shall register within thirty (30) days of beginning operations; those failing to register shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered, beginning with the thirty-first day of their operations.

(8) Any person or persons or other entity or entities establishing, managing or operating an abortion facility or conducting the business of an abortion facility and which otherwise violates any provision of this chapter or any administrative regulation issued thereunder regarding abortion facilities shall be subject to revocation or suspension of the license of the abortion facility or nonlicensure of the abortion facility. In addition, any violation of any provision of this chapter regarding abortion facilities or any administrative regulation related thereto by intent, fraud, deceit, unlawful design, willful and deliberate misrepresentation, or by careless, negligent or incautious disregard for such statute or administrative regulation, either by persons acting individually or in concert with others, shall constitute a violation and shall be punishable by a fine not to exceed one thousand dollars ($1,000) for each such offense. Each day of continuing violation shall be considered a separate offense. The venue for prosecution of any such violation shall be in any county of the state wherein any such violation, or portion thereof, occurred.

Section 9. This Act shall not be construed as repealing any of the laws of the Commonwealth relating to abortion facilities but shall be held and construed as ancillary and supplemental thereto.

Section 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

The Committee Amendment No. 1 to **HB 203** is as follows:

Amend printed copy of **HB 203** on page 14 between lines 22 and 23, to add the following:

"***(4) Licensed acute care hospitals shall be exempt from the provisions of Sections 4 and 5 of this Act, except for any reporting requirements issued by the Cabinet.***"

and on page 15, between lines 15 and 16, to add the following:

"***(5) Licensed acute care hospitals shall be exempt from the provisions of Sections 4 and 5 of this Act, except for any reporting requirements issued by the Cabinet.***"

HB 479, AN ACT relating to the performance of an abortion upon a minor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

(a) The attending physician or his agent secured the informed written consent[~~, signed and notarized,~~] of the minor and ***one (1) parent*** [~~both parents, if available,~~] or legal guardian;

(b) [~~If both parents are not available, the attending physician or his agent has secured such written consent from the minor and the available parent or guardian;~~

~~(c)~~] The minor is emancipated and the attending physician or his agent has received the informed written consent[~~, signed and notarized,~~] of the minor; or

(c)[~~(d)~~] The minor elects to petition any circuit or district court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent[~~, signed and notarized,~~] of the minor.

(3) Every minor shall have the right to petition any circuit or district court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect and understanding of the minor; the nature, possible consequences and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;

(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the cabinet for human resources on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

HB 550, AN ACT relating to assisting a suicide.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act unless the context otherwise requires:

(1) "Licensed health care professional" means a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist.

(2) "Suicide" means the act or instance of taking one's own life voluntarily and intentionally.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A person commits a class "C" felony when the person knowingly by force or duress causes another person to commit or to attempt to commit suicide.

(2) A person commits a class "D" felony when the person, with the purpose of assisting another person to commit or to attempt to commit suicide, knowingly either:

(a) Provides the physical means by which another person commits or attempts to commit suicide; or

(b) Participates in a physical act by which another person commits or attempts to commit suicide.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A licensed health care professional who administers, prescribes, or dispenses medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, shall not be deemed to have violated Section 2 of this Act unless the medications or procedures are knowingly administered, prescribed, or dispensed to cause death.

(2) A licensed health care professional who withholds or withdraws a life-sustaining procedure in compliance with KRS 311.622 to 311.644 or KRS 311.970 to 311.976 shall not be deemed to have violated Section 2 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) A cause of action for injunctive relief may be maintained against any person who is reasonably believed to be about to violate or who is in the course of violating Section 2 of this Act by any person who is:

(a) The spouse, parent, child, or sibling of the person who would commit suicide;

(b) Entitled to inherit from the person who would commit suicide;

(c) A health care provider of the person who would commit suicide; or

(d) A public official with appropriate jurisdiction to prosecute or enforce the laws of this Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

A cause of action for civil damages against any person who violates or who attempts to violate Section 2 of this Act may be maintained by any person given standing by Section 4 of this Act for compensatory damages and exemplary damages, whether or not the plaintiff consented to or had prior knowledge of the violation or attempt.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Reasonable attorneys' fees shall be awarded to the prevailing plaintiff in a civil action brought pursuant to Section 4 or 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The licensing agency which issued a license or certification to a licensed health care professional who assists in a suicide in violation of Section 2 of this Act shall immediately revoke permanently the license or certification of that person upon receipt of:

(1) A copy of the record of the criminal conviction or plea of guilty for a felony in violation of Section 2 of this Act;

(2) A copy of the record of a judgment of contempt of court for violating an injunction issued pursuant to Section 4 of this Act; or

(3) A copy of the record of a judgment assessing damages in a suit brought pursuant to Section 5 of this Act.

The Committee on Tourism Development and Energy reported **HJR 90** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 90, A JOINT RESOLUTION officially recognizing the American Cave and Karst Center and its National Museum of Caves.

WHEREAS, the American Cave and Karst Center was created to provide educational services relating to caves, karstlands, and groundwater, both in Kentucky and nationally; and

WHEREAS, the Commonwealth contains more than 3,500 caves of historic, mineral, biologic, and recreational value; and

WHEREAS, nationally significant caves fall within the Commonwealth's domain, including, Mammoth Cave National Park, and Carter Caves State Park; and

WHEREAS, privately operated commercial caves fall within the Commonwealth's domain, including, Mammoth Onyx Cave, Diamond Caverns, and Crystal Onyx Cave; and

WHEREAS, Kentucky's groundwater is of significant economic value to the Commonwealth's people and industry; and

WHEREAS, approximately 40% of the Commonwealth is underlain by a topography known as karst, a landform containing many caves, sinkholes, and subterranean streams; and

WHEREAS, the Commonwealth recognizes a significant educational need to prevent economic and environmental damage in karst areas;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the American Cave and Karst Center and its National Museum of Caves and Karstlands is hereby recognized as the Commonwealth of Kentucky's official educational center and museum for caves, karstlands, and groundwater.

Section 2. That the Clerk transmit a copy of this Resolution to David Foster, Executive Director, American Cave Conservation Association, P.O. Box 409, 131 Main Street, Horse Cave, Kentucky 42749.

The Committee on Labor and Industry reported **HB 485** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 485, AN ACT relating to prevailing wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of ***the Department of*** Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. ***The***[~~; such~~] wages ***shall*** [~~to~~] be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to ***the*** [~~such~~] allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as ***the*** [~~such~~] terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner [~~of workplace standards~~] showing a status of learner, apprentice, handicapped worker, sheltered workshop employee, and student under administrative procedures and administrative regulations [~~as~~] prescribed and promulgated by the commissioner [~~of workplace standards~~]. This certificate shall authorize employment at ***the*** [~~such~~] wages, less than the established fixed minimum fair wage rates, and for ***the*** [~~such~~] period of time [~~as shall be~~] fixed by the commissioner and stated in the certificate issued to ***the*** [~~such~~] person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing, or elderly person, whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of ***the Department of*** Personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates [~~as~~] necessary for the efficient operation of government and the protection of affected employees; or

10. Any employee employed by an establishment which is an organized nonprofit camp, religious or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil;[~~,~~] dairying;[~~,~~] the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;[~~,~~] the raising of livestock, bees, furbearing animals or poultry;[~~,~~] and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works ***project*** by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) [~~in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the United States Department of Labor, Bureau of Labor Statistics~~];

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of ***the*** [~~such~~] contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" ***shall be determined by the commissioner. He may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend***

beyond the boundaries of a state Senate district. He shall not designate less than an entire county as a locality [~~means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work~~]; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of ***the*** Transportation ***Cabinet***. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, [~~in no event, shall~~] he ***shall not*** designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public ***works*** [~~building facilities~~]; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work [~~except for buildings constructed as institutions of learning~~] constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, ***or*** urban-county government [~~or school district~~] unless such construction is financed with fifty percent (50%) or more of state funds.

(4) ***If*** [~~In any case where~~] the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of ***the*** [~~such~~] public works and ***if*** [~~where~~] KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS 337.505 is amended to read as follows:

For the purpose of KRS 337.505 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, and mechanics engaged in the construction of public works within the Commonwealth of Kentucky, means the sum of:

(1) The basic hourly rate paid or being paid subsequent to the [~~labor~~] commissioner's most recent wage determination to the majority of laborers, workmen, and mechanics employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such rate shall be determined by the commissioner in accordance with paragraphs (a), (b), and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of such workers, and

(2) An additional amount per hour equal to the hourly rate of contribution irrevocably made or to be made by an employer on behalf of employees within each classification of construction to a trustee or to a third person pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the employees affected, for the following fringe benefits: medical or hospital care, pensions on retirement, death compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the employer is not required by other federal, state or local law to provide any of such benefits: Provided, said additional amount may, at the discretion of the employer, be paid [~~either in cash to the employee or~~] by contributions for ***the specific*** fringe benefits ***set forth in the wage determination, or by making contributions for fringe benefits in a total amount not less than the total of the fringe benefits required by the wage determination***, [~~or partly in cash and partly by such contributions,~~] it being the intention of this subsection to recognize fringe benefits as a part of the prevailing wage rate where made in accordance with this subsection.

Section 3. KRS 337.520 is amended to read as follows:

(1) The commissioner shall make initial determinations and current revisions thereof of schedules of rates of prevailing wages, of the amount of fringe benefits included therein as defined in KRS 337.505, and the number of hours applicable thereto. The commissioner ***may*** [~~shall have the authority to~~] make and revise ***the*** [~~such~~] rules and regulations [~~as~~] he may deem appropriate to carry out the provisions and purposes of

KRS 337.505 to 337.550 and to prevent the circumvention or evasion thereof. ***The*** [~~Such~~] rules and regulations shall not include a provision that each contractor and subcontractor shall furnish a sworn affidavit with respect to the wages paid each employee. No rule or regulation or revisions thereof shall be issued by the commissioner except upon reasonable notice to, and opportunity to be heard by, any interested person.

(2) The commissioner shall require the filing of all wage contracts of all laborers, workmen, and mechanics in this state which have been agreed to between bona fide organizations of labor and an employer or associations of employers. ***The*** [~~Such~~] contracts shall be filed within ten (10) days after they are signed.

(3) The commissioner shall have the authority to determine schedules, and current revisions thereof, of the rates of prevailing wages as defined in KRS 337.505, but in no case shall the commissioner determine wages to be paid for a legal day's work to laborers, workmen, and mechanics engaged in the construction of public works at less than the prevailing wages paid in the localities. The commissioner in determining what rates of wages prevail shall consider the following criteria:

(a) Wage rates paid on previous public works constructed in the localities. In considering ***the*** [~~such~~] rates, the commissioner shall ascertain, insofar as practicable, the names and addresses of the contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project, and the respective wage rates paid each worker who was engaged in the construction of these projects.

(b) Wage rates previously paid on reasonably comparable private construction projects constructed in the localities. In considering ***the*** [~~such~~] rates the commissioner shall ascertain, ***insofar as practicable,*** the names and addresses of ***the*** [~~all~~] contractors including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project, and the respective wage rates paid each worker who was engaged in the construction of ***these*** projects.

(c) Collective bargaining agreements or understandings between bona fide organizations of labor and their employers located in the Commonwealth of Kentucky which agreements apply or pertain to the localities wherein the public works are to be constructed.

(4) The wage rates to be used by the public authority in a contract for the construction of public works shall be the prevailing wage as of the date the public works project is advertised and offered for bid. If contracts are not awarded within ninety (90) days after the date of offering for bid, the public authority shall ascertain the prevailing rate of wages from the department before the contract is awarded. The schedule or scale of prevailing wages shall be incorporated in and made a part of each contract.

(5) The commissioner ***may*** [~~shall have the authority to~~] make regulations authorizing the employment of apprentices and trainees in skilled trades at wages lower than the applicable prevailing wage.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Tourism Development and Energy: **HB 477, HB 627, HB 616, HB 438, HCR 110**

Business Organizations and Professions: **HB 604, HB 648**

Calendar

HB 541, HB 547, HB 559, HCR 78, HB 112, HB 162, HB 295, HB 362, HB 434, HB 583, SB 66, SB 79, SB 123, HB 65, HB 67, HB 211, HB 381, HB 508, HB 91, HB 374, HB 420, HB 568, HB 578 and **HB 565** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 455**, by Representative Cyrus:

Amend printed copy of **HB 455/HCS** on page 2, line 26, by placing a bracket after "vote." and by deleting all strikethroughs after "vote."; and

On page 3, by deleting the strikethroughs and the bracket on lines 1 through 4.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 238, HB 343, HB 112, HB 211, HB 362, HB 434, HB 541, HB 547, HB 568, HB 583** and **HCR 78** have been posted for passage in the Orders of the Day for February 28, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Agriculture and Small Business: **HB 559**

Orders of the Day

HB 457, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 457** be passed.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to **HB 457**. Rejected.

On the roll call on the passage of **HB 457** the vote was: Yeas 92, Nays 0. (See February 26, 1992 roll call on **HB 457** - Appendix.)

HB 457 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 457** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 307 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 307** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1992 roll call on **HB 307** - Appendix.)

HB 307 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 307** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 12** and **SB 64** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:33 p.m.)

Orders of the Day (Continued)

HB 371 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 371** be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See February 26, 1992 roll call on **HB 371** - Appendix.)

HB 371 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 371** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 89**, by Representative Lear:

Amend printed copy of **HB 89/HCS2** on page 8, line 14, after "*(2)*" by deleting the the remainder of line 14, and by deleting the words on lines 15 through 20, and by inserting in lieu thereof the following: "***The board shall consist of eleven (11) voting members and one (1) nonvoting member. The eleven (11) voting members shall consist of the Governor, the secretary of the Finance and Administration Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, and eight (8) private sector members who shall be appointed by the Governor. The secretary of the Governor's Executive Cabinet shall serve as a voting member upon the absence of the Governor. The secretary of the Cabinet for Economic Development shall serve as a nonvoting member.***

On page 9, line 24, after "***shall***" by deleting the words "***attempt to***"; and,

On page 11, line 6, after "***the***" as it last appears, by deleting the words "***Cabinet for***" and on line 7 by deleting the words "***Economic Development***" and by inserting in lieu thereof the words: "***Governor's Executive Cabinet***"; and on line 14 after "***secretary***" and before the comma "***,***" by inserting the words "***of the Governor's Executive Cabinet***".

Floor Amendment No. 2 to the Committee Substitute to **HB 47**, by Representative Cyrus:

Amend printed copy of **HB 47/HCS** on page 1, line 14, by deleting the word "***third***" and inserting in lieu thereof the word "***first***"; and

On page 1, line 14, by placing brackets around and striking through the word "May" and inserting in lieu thereof the word "***June***"; and

On page 1, line 20, by deleting the word "***third***" and inserting in lieu thereof the word "***first***"; and

On page 1, line 20, by placing brackets around and striking through the word "May" and inserting in lieu thereof the word "***June***".

Orders of the Day (Continued)

HB 97, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Substitute to **HB 97**. Agreed.

Representative Scorsone moved that **HB 97**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1992 roll call on **HB 97** - Appendix.)

HB 97, by way of Committee Substitute, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 97**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 408, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 408**. Agreed.

Representative Morris moved that **HB 408**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1992 roll call on **HB 408** - Appendix.)

HB 408, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 408**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved that **HB 126** be passed.

On the roll call the vote was: Yeas 83, Nays 6. (See February 26, 1992 roll call on **HB 126** - Appendix.)

HB 126 was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 126** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 465 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 465** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See February 26, 1992 roll call on **HB 465** - Appendix.)

HB 465 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 465** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 487, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of the Committee Substitute to **HB 487**. Agreed.

Representative Jones moved that **HB 487**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See February 26, 1992 roll call on **HB 487** - Appendix.)

HB 487, by way of Committee Substitute, was passed and the title agreed to.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 79**, by Representative Ward:

Amend printed copy of **SB 79** on page 3, after line 24 by adding:

"Section 2. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of ***fifteen (15)*** [~~eleven (11)~~] members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four-year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of ***eight (8)*** [~~six (6)~~] members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between meetings, and the designation of alternates for members with full voting authority."

Orders of the Day (Continued)

HJR 23 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HJR 23** be adopted.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1992 roll call on **HJR 23** - Appendix.)

HJR 23 was adopted.

Representative Lewis moved that the vote by which **HJR 23** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 6**, **HB 27**, **HB 29**, **HB 205**, **HB 239** and **HB 194** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:50 p.m.)

Orders of the Day (Continued)

HJR 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 73** be adopted.

On the roll call the vote was: Yeas 100, Nays 0. (See February 26, 1992 roll call on **HJR 73** - Appendix.)

HJR 73 was adopted.

Representative Worthington moved that the vote by which **HJR 73** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 94 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HJR 94** be adopted.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1992 roll call on **HJR 94** - Appendix.)

HJR 94 was adopted.

Representative Burch moved that the vote by which **HJR 94** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 323, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 323**. Agreed.

Representative Burch moved that **HB 323**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See February 26, 1992 roll call on **HB 323** - Appendix.)

HB 323, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 323**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 157** is as follows:

HB 157, AN ACT relating to the Commonwealth of Kentucky's procurement of architectural and engineering services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Architect" means an architect licensed to practice under KRS Chapter 323 or a landscape architect licensed to practice under KRS Chapter 323A;

(2) "Engineer" means an engineer licensed to practice under KRS Chapter 322;

(3) "Procuring agency" means either the Finance and Administration Cabinet or the Transportation Cabinet;

(4) "Project" means any undertaking requiring the professional services of an architect or engineer, except as provided in KRS 45A.100;

(5) "User agency" means the state agency that will occupy or otherwise be the primary beneficiary of a completed Finance and Administration Cabinet project; and

(6) "User division" means the division of the Transportation Cabinet that requires the procuring of engineering services for a project.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares it to be the policy of the Commonwealth of Kentucky to:

(a) Insure the fair and equitable treatment of all firms interested in providing architectural or engineering services to the Commonwealth;

(b) Announce publicly all requirements for architectural and engineering services; and

(c) Award a contract for architectural or engineering services to the best firm, qualified to perform the work on a project, on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) (a) One (1) or more architectural services selection committees and one (1) or more engineering services selection committees should be created in the Finance and Administration Cabinet.

(b) One (1) or more engineering services selection committees shall be created in the Transportation Cabinet.

(2) Except when an emergency exists as defined by KRS 45A.095(3):

(a) An architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring architectural services;

(b) An engineering services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring engineering services; and

(c) An engineering services selection committee created in the Transportation Cabinet shall participate in every instance of that cabinet's procuring engineering services.

(3) An architectural services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members selected in the manner specified within each paragraph:

(a) Two (2) architects. The secretary of the Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select the two (2) architects from a pool, appointed by the secretary, of six (6) architects, who are merit employees of the Finance and Administration Cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual. The Kentucky Society of Architects shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(4) The engineering services selection committee created in the Finance and Administration Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers. The secretary of the Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select the two (2) engineers from a pool, appointed by the secretary, of six (6) engineers, who are merit employees of the Finance and Administration Cabinet;

(b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual. The Kentucky Society of Professional Engineers and the Consulting Engineers Council of Kentucky shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(5) The engineering services selection committee created in the Transportation Cabinet shall consist of the following six (6) members:

(a) Two (2) engineers. The secretary of the Transportation Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select the two (2) engineers from a pool, appointed by the secretary, of six (6) engineers, who are merit employees of the Transportation Cabinet;

(b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;

(c) An individual. The Kentucky Society of Professional Engineers and the Consulting Engineers Council of Kentucky shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Transportation Cabinet, or his designee, under the supervision of the Auditor of Public Accounts, or his designee, shall randomly select one (1) individual to serve on the committee; and

(d) A merit employee of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as a nonvoting member of the committee.

(6) (a) All selection committee members shall have experience which qualifies them to serve on the committee.

(b) The same appointment procedures set out in this section apply to any user agency or user division listed in subsection (3), (4), or (5) of this section that does not operate under a merit system.

(c) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed to succeed himself for another one (1) year term. He shall serve until his successor is appointed and qualified. At the conclusion of his service in a pool, he shall be prohibited from serving in a pool until a year has elapsed. A successor or a replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee.

(d) Any individual appointed by the Auditor of Public Accounts to serve on a selection committee shall serve an initial one (1) year term and may be reappointed to succeed himself for another one (1) year term. He shall serve until his successor is appointed and qualified. At the conclusion of his service on a selection committee, he shall be prohibited from serving on a selection committee until a year has elapsed. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

(e) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Before a person joins a selection committee, he shall receive an orientation from the procuring agency whose secretary appointed members to the committee. The orientation shall include, but not be limited to, an explanation of all statutes and administrative regulations pertaining to the person's service on the selection committee.

(2) For administrative purposes, a selection committee shall be attached to the procuring agency whose secretary appointed members to the committee.

(3) A procuring agency shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;

(b) An executive secretary and any other staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Selection committee members who are not state agency employees, including university employees, shall receive a salary of one hundred dollars ($100) per day for those days authorized by the selection committee for selection committee activities.

(2) Selection committee members who are state agency employees, including university employees, shall not receive a salary for their time spent on selection committee activities, and the state government salaries of these committee members shall not be reduced due to time spent away from other state government activities.

(3) All selection committee members shall be reimbursed for costs necessarily incurred in carrying out their duties. All reimbursements shall be authorized by the selection committee.

(4) The procuring agency shall pay all costs generated under this section by a selection committee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A firm interested in providing architectural or engineering services to the Commonwealth shall, each Commonwealth fiscal year, submit to the relevant procuring agency a statement of general qualifications on a form devised by that agency. A firm may submit a completed form at the same time or at any time before the firm responds to a request for proposals. A firm which fails to submit a completed form in a timely fashion shall be barred from the procurement process. A statement of general qualifications shall remain in effect until the end of the fiscal year during which the statement is submitted.

(2) The procuring agency shall consult with the user agency or user division before arriving at a request for proposals. The request for proposals shall indicate the relative weight of evaluation factors. Through advertisement, and any other available means, the procuring agency shall provide notice of a request for proposals and notice of the materials that the procuring agency will provide to a firm to assist that firm

in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the project evaluation sheet to be used by the relevant selection committee. The advertisement shall also set a deadline for filing responses to a request for proposals with the procuring agency.

(3) A firm shall respond to a request for proposals by submitting, before the deadline, a one (1) page letter of interest as well as a completed form, devised by the procuring agency, which states the firm's experience and its qualifications for the project as described in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.

(4) The employees of a procuring agency and the members of the selection committee shall keep all responses to a request for proposals confidential until the procuring agency has awarded a contract.

(5) The secretary of the procuring agency shall designate a procuring agency employee to determine which firms have filed, in a timely fashion, statements of general qualifications and responses to a request for proposals. He shall create a list of the firms which have done so and certify the list.

(6) The procuring agency shall organize the selection committee's first meeting. At that meeting, the selection committee shall:

(a) Elect from among the voting members of the committee a chairman and a vice chairman who shall hold their positions for the duration of the selection committee's participation in the project;

(b) Be provided with:

1. The certified list created pursuant to subsection (5) of this section;

2. The current general qualification statements of these firms;

3. The firms' responses to the request for proposals;

4. The request for proposals;

5. The advertised notice of request for proposals; and

6. The project evaluation sheets; and

(c) Discuss the future conduct of its affairs.

(7) (a) When the Department of Transportation procures engineering services or when the Finance and Administration Cabinet procures architectural or engineering services for an estimated fee of less than one hundred thousand dollars ($100,000), this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select the three (3) most qualified firms and rank them in order of preference, based upon the weighted evaluation factors established in the request for proposals; and

3. Notify the procuring agency of the ranking.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists;

2. Their ranking; and

3. The rest of the procedure that will be followed in the awarding of the contract.

(d) The procuring agency shall then begin negotiations with the top-ranked firm pursuant to subsection (9) of this section.

(8) (a) When the Finance and Administration Cabinet is procuring architectural or engineering services for an estimated fee of one hundred thousand dollars ($100,000) or more, this subsection and subsection (9) of this section shall govern the procurement process.

(b) The selection committee shall meet in executive session to:

1. Evaluate the materials with which it has been provided;

2. Select, but not rank, the three (3) most qualified firms, based upon the weighted evaluation factors established in the request for proposals; and

3. Notify the procuring agency of the three (3) finalists.

(c) The procuring agency shall send a letter to each firm which responded to the request for proposals, informing the firm of:

1. The three (3) finalists; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(d) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the procuring agency has awarded a contract.

(e) The selection committee shall meet in executive session to:

1. Rank the three (3) finalists based upon the weighted evaluation factors established in the request for proposals; and

2. Forward the ranking to the procuring agency.

(f) The procuring agency shall send a letter to each finalist, informing the finalist of:

1. His ranking; and

2. The rest of the procedure that will be followed in the awarding of the contract.

(g) The procuring agency shall then begin negotiations with the top-ranked firm pursuant to subsection (9) of this section.

(9) The secretary of the procuring agency shall designate a procuring agency employee as the procuring officer in charge of negotiating a contract with the top-ranked firm, as determined by the selection committee, at compensation which the procuring officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the employee shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the procuring officer be unable to negotiate a satisfactory contract with the top-ranked firm, at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The procuring officer shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third-ranked firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the selection committee shall select additional firms in order of their competence and qualification, and the purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(10) Once a procuring officer has negotiated a contract, the procuring agency shall send a letter to the other finalists, informing them of:

(a) Which firm has successfully negotiated a contract; and

(b) The rest of the procedure that will be followed in the awarding of the contract.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) After the procuring officer has negotiated an architectural or engineering services contract, but before the contract is submitted to the Personal Service Contract Review Subcommittee, the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each member of the selection committee shall sign separate certificates, devised by the procuring agency, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of this chapter which has arisen in the procurement process. The representative of the Auditor of Public Accounts shall also sign a certificate stating that the applicable provisions of subsections (4), (6), (7), and (8) of Section 6 of this Act were met.

(3) The procuring agency shall file with the Personal Service Contract Review Subcommittee:

(a) The certificates; and

(b) The selection committee's ranking of firms.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) (a) A person shall not serve in a pool from which selection committee members are drawn or on a selection committee if that person, his spouse, either of his parents, or any of his children is employed by an architectural or engineering firm or has a financial interest in an architectural or engineering firm.

(b) If, in the course of an individual's service, he, his spouse, either of his parents, or any of his children becomes employed by an architectural or engineering firm or establishes a financial interest in an architectural or engineering firm, then his service shall end.

(2) For a period of one (1) year after a person ends his service on a selection committee, the Commonwealth shall not consider a firm for an architectural or engineering services contract if that person, his spouse, either of his parents, or any of his children is employed by a firm or has a financial interest in a firm which was awarded a contract by a selection committee on which he served.

Section 9. KRS 45A.195 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall promulgate by regulation the form of the bonds required by KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The purchasing agency shall furnish a certified copy of a bond to any person who requests ***a copy*** [~~such~~] and pays a reasonable fee for ***the*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 10. KRS 45A.440 is amended to read as follows:

(1) The local public agency may promulgate by regulation the form of the bonds required by KRS 45A.430 and 45A.435, or it may adopt the form established by the state under KRS ***45A.180*** [~~45A.175~~] to ***45A.200*** [~~45A.205~~].

(2) The local public agency shall furnish a certified copy of a bond to any person who requests such and pays the reasonable fee for ***that*** [~~such~~] copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

Section 11. KRS 45A.695 is amended to read as follows:

(1) No one shall begin work on a personal service contract made by any contracting body except as provided in subsection (8) of this section, until after three (3) copies of the personal service contract are filed with the Legislative Research Commission. Each service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the Legislative Research Commission shall be accompanied by documentation of:

(a) The need for ***the*** [~~such~~] service; [~~and~~]

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform ***the*** [~~such~~] service***; and***

(c) In the case of an architectural or engineering services contract, the documents identified in subsection (3) of Section 7 of this Act.

(3) Adequate notice of the need for ***the*** [~~such~~] services shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or a designee of ***the*** [~~such~~] officer may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or a designee of ***the*** [~~such~~] officer, to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals, and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with ***the*** [~~such~~] other offeror or offerors, in the order of their respective qualification ranking. In this case the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of such officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, with suitable indexes.

(7) Payment on contracts submitted to the subcommittee shall not be made before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary.

(8) In the event of a governmental emergency, work may begin prior to filing three (3) copies of the personal service contract with the Legislative Research Commission providing that the normal process will not accommodate the emergency.

(9) If an emergency exists and work is authorized to begin immediately, three (3) copies of a statement, approved by the secretary of the Finance and Administration Cabinet, setting forth in detail the nature of the emergency shall be filed with the three (3) copies of the personal service contract.

Section 12. The following KRS sections are repealed:

45A.175 Definitions of terms used in KRS 45A.170 to 45A.205.

45A.205 Policy as to architectural and engineering services.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 157** is as follows:

Amend printed copy of **HB 157/SCS** on page 2, line 20, delete "***should***" and insert in lieu thereof "***shall***"

On page 4, line 14, after "***members***" insert "***selected in the manner specified in each paragraph***"

On page 5, line 14, after "***members***" insert "***selected in the manner specified in each paragraph***"

On page 7, line 3, delete "***a***"

On page 7, line 3, delete "***committee***" and insert in lieu thereof "***committees***"

On page 7, line 7, delete "***on a selection committee***"

On page 7, line 16, after the period add "***A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.***"

On page 8, lines 13 and 14, delete "***state agency***"

On page 8, line 14, delete "***, including university employees,***" and insert in lieu thereof "***of state agencies or state universities***"

On page 8, lines 18 and 19, delete "***state agency employees, including university employees,***" and insert in lieu thereof "***employees of state agencies or state universities***"

On page 11, line 15, after "***procures***" insert "***any***" and after "***services***" insert "***,***"

On page 11, line 16, after "***architectural***" insert "***services for an estimated fee of less than fifty thousand dollars ($50,000)***"

On page 12, line 15, after the word "***architectural***" add "***services for an estimated fee of fifty thousand dollars ($50,000) or more***".

Representative Long moved that the House concur in the Senate Committee Substitute to **HB 157**. Agreed.

Representative Long moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 157**. Agreed.

Representative Long moved that **HB 157**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 26, 1992 roll call on **HB 157** - Appendix.)

HB 157, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 157**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 598** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 680, by Representative Lear: AN ACT relating to workforce training.

HB 681, by Representative Lear: AN ACT relating to the Kentucky Development Finance Authority.

HB 682, by Representative Palumbo: AN ACT relating to horse racing.

HB 683, by Representative Burch: AN ACT relating to the Cabinet for Human Resources.

HB 684, by Representative Jensen: AN ACT relating to public employees.

HB 685, by Representative Jensen: AN ACT relating to the inspector general.

HB 686, by Representative Burch: AN ACT relating to the discharge of voluntarily admitted residents of an ICF/MR.

HB 687, by Representative Walker: AN ACT relating to amusement rides and attractions.

HB 688, by Representative Burch: AN ACT relating to committed juveniles absent without authorization from state custody.

HB 689, by Representative Riggs: AN ACT relating to crimes and punishments.

HB 690, by Representative Burch: AN ACT relating to the Developmental Disabilities Planning Council.

HB 691, by Representative LeMaster: AN ACT relating to highway signs.

HB 692, by Representative Riggs: AN ACT relating to crimes and punishments.

HB 693, by Representative Burch: AN ACT relating to the use of school buses.

HB 694, by Representative Richards: AN ACT relating to county boards of election.

HB 695, by Representative Richards: AN ACT relating to the Kentucky Teacher Internship Program.

HB 696, by Representative Ward: AN ACT relating to low-level radioactive waste.

HB 697, by Representative Johnson: AN ACT relating to partnerships.

HB 698, by Representative Worthington: AN ACT relating to education technology and declaring an emergency.

HB 699, by Representative Worthington: AN ACT relating to public ownership of solid waste landfills and declaring an emergency.

HB 700, by Representatives Callahan, K. Harper, Sheehan, Donnermeyer and Kerr: AN ACT relating to the Northern Kentucky Convention Center Corporation.

HB 701, by Representative Riggs: AN ACT relating to county officials.

HCR 129, by Representatives Barrows and Hancock: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to conduct a study on the feasibility of centralizing the state's legal services in the Office of the Attorney General.

HJR 130, by Representative Ark: A JOINT RESOLUTION renaming Kentucky Highway 313 the Joe Prather Highway.

HR 131, by Representative Stumbo: A RESOLUTION honoring small coal operators.

HR 132, by Representative Noe: A RESOLUTION confirming the appointment of Wade Mountz as a member of the State Board for Elementary and Secondary Education.

HR 133, by Representative Noe: A RESOLUTION confirming the appointment of Deborah B. Morrow as a member of the State Board for Elementary and Secondary Education.

HR 134, by Representative Noe: A RESOLUTION confirming the appointment of K. L. Moore as a member of the State Board for Elementary and Secondary Education.

HR 135, by Representative Noe: A RESOLUTION confirming the appointment of Jeffrey C. Mando as a member of the State Board for Elementary and Secondary Education.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 637**

Banking and Insurance: **SB 113**, **HB 613**

Appropriations and Revenue: **HB 585**, **HB 591**, **HB 605**, **HB 607**, **HB 608**, **HB 491**, **HCR 20**, **HJR 116**, **SB 161**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 219**, by Representative Lewis:

Amend printed copy of **HB 219** on page 2, after line 6, by inserting the following:

"***(5) Counties shall devise a system to mark the roads under its jurisdiction with luminescent paint for the purpose of identifying the location of fire hydrants. The cost of marking the location of the hydrants shall be borne by the county.***"

Motions, Petitions and Communications (Continued)

Representative Noland moved the adoption of the following **HR 128**:

HR 128, A RESOLUTION celebrating the one hundred and twenty-one years Lee County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

WHEREAS, parts of Owsley, Breathitt, Wolfe, and Estill Counties were combined to form Lee County, effective March 1, 1870; and

WHEREAS, it was the one hundred and fifteenth county created and was named in honor of General Robert E. Lee; and

WHEREAS, Lee County is located in the Kentucky River area of eastern Kentucky and Beattyville serves as the county seat; and

WHEREAS, much of the western part of the county is within the Daniel Boone National Forest; and

WHEREAS, the North, South, and Middle Forks of the Kentucky River can be found in the county; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to honor Lee County's acceptance into the Commonwealth; and

WHEREAS, geography has always had an active influence on the lives of Kentuckians; and

WHEREAS, the varying topography within the state created the diversity that has been a part of Kentucky life from the beginning; and

WHEREAS, in many ways this diversity has served the state well; and

WHEREAS, it is appropriate that the motto of our great state is "United We Stand, Divided We Fall" because with minor exceptions, that thought has been central to the survival of Kentucky throughout its history, from the tumultuous frontier days to the divisions created by the Civil War, to the pressures of changing economic conditions; and

WHEREAS, through all the peaks and valleys, Kentuckians have drawn upon their inner strengths to survive and prosper;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the citizens of Lee County upon the occasion of Lee County's one hundred and twenty-first year as a part of the Commonwealth in conjunction with the occasion of Kentucky's Bicentennial Year.

Section 2. That this honorable body commends the people of Lee County for their dedication to enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of Lee County to join in the observance of Kentucky's Bicentennial Celebration on June 1, 1992.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Lee County Commissioner, County Court House, Beattyville, Kentucky 41311.

HR 128 was adopted by voice vote.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that his vote be changed from "yea" to "nay" on **HB 401**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 457**. Agreed.

Representative Farrow moved that the rules be suspended to withdraw **HB 552**. Agreed.

Representative Barrows moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Barrows moved the adoption of the following Legislative Citation No. 33. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends MIRANDA MARSTON for your nomination to serve as a Congressional Scholar representing Kentucky at the National Young Leaders Conference to be held in Washington, D.C. This is a prestigious honor as only 350 of the best and brightest students from across the nation are selected to participate. Your outstanding achievements are reflective of your desire to excel academically and personally.

The House of Representatives joins Representative Joe Barrows in congratulating you on receiving this honor. We extend our very best wishes for a future filled with success and happiness.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 131**:

HR 131, A RESOLUTION honoring small coal operators.

WHEREAS, Kentucky's coal industry represents one of the most important sectors of the state's economy; and

WHEREAS, Kentucky's small coal operators have been an essential part of the industry, providing strength to the industry, and employment and opportunities throughout the coal fields; and

WHEREAS, small coal operators have provided many jobs both directly and indirectly, in geographic areas where jobs have been greatly needed. Small coal operations generally are family owned, and miners live where they mine and are closely tied to the local economy. Small coal operators help provide reasonably priced coal, develop small tracts, support spot markets and small contracts, and provide a critical part of the industry. Twenty-two percent of the coal in the Commonwealth is still produced by small coal operators. This generates around $41 million in severence tax and $123 million in total revenues; and

WHEREAS, Kentucky has the most small operators of any state, but their numbers have vastly decreased. Numbers of small coal operators have declined from several thousand to only around 650 today. The Surface Mining Reclamation and Control Act, and changed markets, contracts, and transportation have caused the decline. This decline has been a tremendous loss to our communities, our state, and our nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the small coal operators of the state be commended and honored for their dedication, and their contribution to the stability of our communities, the state's economy, and the American way of life.

Section 2. That the entities of State Government strive to help preserve this most important resource.

Section 3. That the clerk of the House shall transmit a copy of this Resolution to Mr. Joe Jacobs, Post Office Box 249, Stanville, Kentucky 41659.

HR 131 was adopted by voice vote.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: **HJR 73**, **HB 219**, Representative Ravenscraft; **HB 97**, Representative Ackerson; **HB 101**, Representative Keith; **HB 114**, Representative Richardson; **HB 208**, Representatives Bryant, Richardson; **HB 371**, **HB 513**, Representative Lile; **HB 565**, **HB 604**, Representative Reinhardt; **HB 598**, Representatives Riner, Walker; **HB 614**, Representative McElroy.

The following members filed requests to have their names withdrawn as co-sponsors of Bills: **HB 552**, Representative B. Smith; **HB 566**, Representatives Bruce, Morris.

Announcements

The following meetings were announced:

Elections and Constitutional Amendments, 9:00 a.m., February 27, 1992, Room 131.

Natural Resources and Environmental Protection, 10:00 a.m., February 27, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, February 27, 1992.

On the roll call the vote was yeas 89—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 27, 1992

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Gary Hollingsworth, Shively Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 26, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 193** and **HB 183**. (Time: 2:02 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 157** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:03 p.m.)

HB 157 was delivered to the Senate and signed by the President. Delivered to the Governor on February 27, 1992 at 2:30 p.m.

Introduction of Bills and Resolutions

HB 702, by Representative Farley: AN ACT relating to retirement.

HB 703, by Representative Sheehan: AN ACT relating to catering licenses.

HB 704, by Representative Clarke: AN ACT relating to revenue and taxation.

HR 136, by Representatives Burch and Bronger: A RESOLUTION adjourning in honor of Dr. Donald Ingwerson, Jefferson County School Superintendent.

HR 137, by Representative Jensen: A RESOLUTION in favor of proportional party representation on House standing committees.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 687**

Appropriations and Revenue: **HB 681**

Business Organizations and Professions: **HB 682**

Cities: **HB 700, SB 145, SB 151, SB 206, SB 3**

Counties and Special Districts: **HB 701**

Education: **HR 132, HR 133, HR 134, HR 135, HB 677, HB 680, HB 695, HB 698**

Elections and Constitutional Amendments: **HB 694**

Health and Welfare: **HB 678, HB 683, HB 686, HB 688, HB 690, HB 693**

Judiciary: **HB 689, HB 692, HB 697, SB 210**

Natural Resources and Environmental Protection: **HB 696, HB 699**

State Government: **HCR 129, HB 684, HB 685, SB 114, SB 192, SB 219, SCR 65**

Tourism Development and Energy: **HB 691, HB 679**

Transportation: **HJR 130**

Report of Committees

The Committee on State Government reported **HB 101, HB 165, HB 464**, with Committee Amendment attached thereto, **HB 535, HB 537, HB 542, HB 561, HB 563, HB 579, HB 589, HB 606**, with Committee Amendment attached thereto, **HB 610, HB 624, HCR 118, HJR 121, SB 99** and **SB 107**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 101, AN ACT relating to retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective July 1, ***1992*** [~~1990~~], upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) [~~for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System~~] of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count the vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. The credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.691 is amended to read as follows:

(1) ***Beginning July 1, 1992 and continuing each July 1 thereafter, the board shall increase retirement allowances for each recipient of a retirement allowance under KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852 out of the rate margin for each respective system. For this purpose, the rate margins for hazardous and nonhazardous categories of the Kentucky Employees Retirement System and the County Employees Retirement System shall be calculated separately. Each recipient shall receive an increase equal to the increase in the consumer price index for all urban consumers for the preceding calendar year, but no more than five percent (5%) and no more than can be supported by the rate margin for the system from which the recipient has retired. If the rate margin is not sufficient to fund the allowable increase, the board shall fund in that year so much of the increase as can be paid out of the margin. The board shall fund the deficiency on a deferred basis out of the rate margins of any of the four (4) subsequent years, if funds are sufficient after payment of the allowable increase for the year in question*** [~~The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period~~].

(2) [~~Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.~~

~~(3) Effective August 1, 1990, and July 1, 1991, a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by two and nine-tenths percent (2.9%).~~

~~(4)~~] A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

Section 3. Whereas, retirement checks are processed on a monthly basis and administrative difficulties would result if retirement factors were to change in the middle of a month, an emergency is declared to exist, and this Act shall take effect on July 1, 1992.

HB 165, AN ACT relating to corrections personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.160 is amended to read as follows:

(1) The secretary shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance.

(2) The cabinets shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates. ***The cabinet shall pay the cost of converting nonhazardous service to hazardous service for active employees who earned nonhazardous service credit prior to July 13, 1990.***

Section 2. The Kentucky Employees Retirement System shall refund, with interest as paid in other refunds, the contributions made by any active Corrections Cabinet employee who converted nonhazardous duty service credit to hazardous duty service credit on or after July 13, 1990.

HB 464, AN ACT relating to carrying concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) ***An honorably retired officer of the Department of State Police may carry a concealed deadly weapon on or about his person at all times within the Commonwealth of Kentucky. This section shall not apply to a retired officer who has been retired for a medical or other reason which would render him unable or unsuitable to carry a concealed deadly weapon. In this case, when the officer retires, the department shall deny him the right to carry a concealed deadly weapon. If the officer is honorably retired and is authorized to carry a concealed deadly weapon the department shall issue him an identification card authorizing the carrying of the concealed deadly weapon. The permission to carry a concealed deadly weapon shall become void if the officer is subsequently convicted of a felony offense in any jurisdiction.***

(5) A deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether ***the*** [~~said~~] compartment is locked, unlocked, or does not have a locking mechanism.

(6)[~~(5)~~] Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

The Committee Amendment No. 1 to **HB 464** is as follows:

Amend printed copy of **HB 464** as follows:

On page 1, line 19, by inserting, after "***Police***" the words "***or an honorably retired city or county police officer***"; and

On page 1, line 21, by inserting after "***Kentucky***" the words "***if authorized to do so by the Department of State Police***"; and

On page 2, line 11, by inserting the following after "***jurisdiction***":

"***or fails to annually requalify by successfully completing a test in the use of firearms and physical and psychological examinations prescribed by the Department of State Police to determine whether he continues to be able and suitable to carry a concealed deadly weapon***".

HB 535, AN ACT relating to Cherokee Indians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Delilah Whitecloud United Cherokee Indian Tribe of Kentucky is hereby recognized as the official Native American Cherokee Indian Tribe of the Commonwealth of Kentucky.

HB 537, AN ACT relating to a pledge to the state flag.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The official pledge to the flag of the Commonwealth of Kentucky shall be as follows:

"I promise to be loyal to Kentucky, the fifteenth state of the United States of America. I will proudly obey the Commonwealth's laws, being neighborly to all who call her 'home,' and remembering that 'United We Stand, Divided We Fall.'"

HB 542, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of such reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during ***the*** [~~such~~] reemployment except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, ***if*** [~~provided~~] he does not receive more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) ***If*** [~~In the event~~] the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee and no service credit shall be earned for the period of reemployment;

(c) ***If*** [~~In the event~~] the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595;

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3.[~~; provided, however,~~] The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except ***the*** [~~such~~] retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned during reemployment over the maximum permissible earnings.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) ***Effective August 1, 1992, the provisions of subsection (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which he retired. Reemployed retired members shall be treated as new members upon reemployment in a covered position. Any retired member whose reemployment date preceded August 1, 1992, who does not elect, within sixty (60) days of notification by the general manager, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection*** [~~In the event a retired hazardous position member or a member of the State Police Retirement System is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed in a nonhazardous position, the board is hereby authorized to waive or modify the foregoing provisions of this section and permit such person to receive a partial disability retirement allowance while accruing retirement benefits in a nonhazardous position~~].

HB 561, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 91-480 which reorganizes the Department of Fish and Wildlife Resources within the Tourism Cabinet as follows:

(1) The Division of Public Affairs is created and shall be headed by a director appointed by the commissioner of Fish and Wildlife Resources pursuant to KRS 12.050. The division shall consist of organizational entities deemed appropriate by the commissioner and set forth by Administrative Order.

(2) The Division of Conservation Education shall be renamed the Division of Information and Education. The Division of Information and Education shall be headed by a director appointed by the commissioner of Fish and Wildlife Resources pursuant to KRS 12.050. The division shall consist of organizational entities deemed appropriate by the commissioner and set forth by Administrative Order.

(3) The Division of Public Relations is abolished and its personnel, records, files, equipment, and funds transferred to the Division of Conservation Education and assigned to organizational entities as deemed appropriate by the commissioner of the Department of Fish and Wildlife Resources and set forth by Administrative Order.

HB 563, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be organized into a Department for Adult and Technical Education, a Department for the Blind, and other departments, divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.

(3) The Cabinet for Workforce Development shall consist of the following major organizational units:

(a) The Department for Adult and Technical Education, which is created by KRS 151B.025;

(b) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;

(c) The Department for the Blind, established by KRS 163.470;

(d) The State Board for Adult and Technical Education, which is created by KRS 151B.095;

(e) The Division for Client Assistance which is created by KRS 151B.225;

(f) The Governor's Council on Vocational Education, established by KRS 163.086;

(g) The Governor's Commission on Literacy, established by KRS 151B.135;

(h) The State Board for Proprietary Education, established by KRS 165A.340;

(i) The GED Foundation, established by KRS 151B.130;

(j) The Kentucky Occupational Information Coordinating Committee established by KRS 151B.215; and

(k) The Kentucky Job Training Coordinating Council, established by KRS 151B.220.

(4) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees, and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. ***The office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, and Administration and Policy Support.***

Section 2. The Office of Administration and Policy Support which is attached to the Office of the Secretary of the Cabinet for Workforce Development shall consist of the Divisions of Personnel Services, Fiscal Services, Policy and Budget, Computer Services, and Client Assistance.

Section 3. The General Assembly confirms Governor's Executive Order 90-604 to the extent it is not otherwise confirmed by this Act.

HB 579, AN ACT relating to the administrative regulatory process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) All proposed new administrative regulations or proposed amendments to existing administrative regulations proposed by the Natural Resources and Environmental Protection Cabinet shall be submitted to the secretary of the Cabinet for Economic Development for review and comment on the regulatory impact analysis accompanying the administrative regulation as required by KRS 13A.230.

(2) The secretary of the Cabinet for Economic Development shall review the regulatory impact analysis of the proposed administrative regulation or amendment to determine its potential economic impact including, but not limited to, its direct and indirect impact on the creation or loss of jobs in the Commonwealth or its subdivisions.

(3) The secretary of the Cabinet for Economic Development shall within thirty (30) days of the submission of the proposed administrative regulation or amendment, provide a written report to the Governor, the secretary of the Natural Resources and Environmental Protection Cabinet, and the Legislative Research Commission outlining the regulation's or amendment's economic impact and recommending for or against its adoption based on that impact.

(4) In determining the economic impact of the proposed new or amended administrative regulation, the secretary of the Cabinet for Economic Development shall take into account any factors that he deems appropriate, including, but not limited to, the potential impact on employment in the Commonwealth which may result from the adoption of the proposed administrative regulation or amendment.

(5) This section shall not apply to emergency administrative regulations as set out in KRS 13A.190.

HB 589, AN ACT relating to disaster and emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.425 is amended to read as follows:

(1) Notwithstanding any inconsistent provision of law, the Governor may, whenever he deems it to be in the public interest:

(a)[~~(1)~~] Authorize any department or agency of the state to lease or lend, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, any real or personal property of the state government to the President of the United States, the chiefs of the Armed Forces, or to the Defense Civil Preparedness Agency of the United States;

(b)[~~(2)~~] Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government, or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state***; and***

(c) Permit state employees to engage in disaster and emergency response activities either for state disaster and emergency services or upon request of a local disaster and emergency services agency to the division. State employees assigned to, or volunteering for, the duty shall be considered as being employed by the agency by which they are regularly employed and shall continue to receive salary and benefits while engaging in disaster and emergency services work.

(2) The permission of the Governor for the use of state employees in the manner specified in subsection (1)(c) shall be presumed and shall be automatic unless the Governor specifies otherwise with regard to the use of a specific employee or employees.

(3) The Chief Justice for the Court of Justice and the Director of the Legislative Research Commission, with regard to employees of their respective departments of government, shall have the authority to permit Court of Justice and legislative department employees to engage in disaster and emergency services work under the same terms and conditions as specified in subsections (1) and (2) of this section.

HB 606, AN ACT relating to the Communications Advisory Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.955 is amended to read as follows:

(1) There is hereby created a Communications Advisory Council to the Kentucky Information Systems Commission for the development and coordination of statewide communications plans for the effective and efficient use of communications technology within state government.

(2) The Communications Advisory Council, hereinafter called the council, shall be responsible for assisting the Kentucky Information Systems Commission with the development and implementation of strategic plans for statewide communications.

(3) The council shall consist of:

(a) Two (2) officers of the Finance and Administration Cabinet which shall include the commissioners of the Department of Information Systems and Department of Facilities Management or their respective designees;

(b) Two (2) representatives of the public universities appointed by the Governor from a list of four (4) persons submitted by the executive director of the Council on Higher Education;

(c) The executive director of the Council on Higher Education or his designee;

(d) The executive director of the Kentucky Authority for Educational Television or his designee;

(e) The state librarian or his designee;

(f) The Superintendent of Public Instruction or his designee;

(g) The adjutant general or his designee;

(h) The commissioner of the Department of State Police or his designee;

(i) The executive director of the Administrative Office of the Courts or his designee;

(j) ***The executive director of the Public Service Commission or his designee;***

(k) One (1) representative of local governments to be appointed by the Governor; and

(l)[~~(k)~~] Two (2) citizen members to be appointed by the Governor.

(4) A member of the council may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has a substantial interest in the communications industry;

(b) Own or control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the communications or automated information industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with communications systems or a service related to the automation of information systems or the computers in which they are automated, or a related service.

(5) A member of the council shall be removed if the member violates a prohibition established by subsection (4) of this section. The validity of an action of the council shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a council member exists, the chairman shall notify the Governor of the potential ground for removal.

(6) The term of office of the members specified in subsections (3)(a) and (3)(c) to (3)(i) shall be the same as the term of the office by virtue of which they serve upon the council.

(7) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments.

(8) Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

The Committee Amendment No. 1 to **HB 606** is as follows:

Amend printed copy of **HB 606** as follows:

On page 2, line 8, by inserting, after "The", the words "***chief state school officer***" and by placing brackets around and striking through "Superintendent of Public Instruction"; and

On page 3, line 19, by inserting "***(j)***" between "(3)" and "(i)" and by bracketing and striking through "(i)".

HB 610, AN ACT relating to the reorganization of the Kentucky Educational Savings Plan Trust.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 164A.300 TO 164A.380 IS CREATED TO READ AS FOLLOWS:

(1) The board is authorized to incorporate an organization pursuant to KRS Chapter 273 for the eleemosynary, charitable, and educational purposes of administering an endowment trust. The organization so created shall be an instrumentality of the Commonwealth, but shall possess no part of the sovereign powers of the Commonwealth. The corporation shall be created to qualify as a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) The endowment trust created pursuant to subsection (1) of this section shall solicit and accept gifts, grants, donations, bequests, or other endowments, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency, for the purposes of the endowment trust.

(3) The endowment trust shall provide student financial assistance benefits, including, but not limited to, grants, scholarships, or loans to pay higher education costs of members of the public, designated as beneficiaries of participation agreements under the Kentucky Educational Savings Plan Trust, who enroll in an institution of higher education in Kentucky.

(4) The board is authorized to transfer to the endowment trust, after its qualification under Section 501(c)(3) of the Internal Revenue Code, any funds or assets then held in the endowment fund initially established pursuant to KRS 164A.335.

(5) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership or corporation to the endowment trust shall be a grant, gift, or donation for the accomplishment of a valid public, eleemosynary, charitable, and educational purpose.

(6) The endowment trust shall submit an annual audited report, in accordance with KRS 164A.365(1) and (2), to the program administrator not later than the fifteenth of each September.

Section 2. KRS 164A.300 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby declares as a legislative finding of fact that the general welfare and well-being of the Commonwealth are directly related to the educational levels and skills of the citizens of the Commonwealth. Therefore, a vital and valid public purpose of the Commonwealth is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the Commonwealth.

(2) The General Assembly finds, declares and recognizes that the Commonwealth has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in Kentucky and the general welfare of the citizens and the Commonwealth will be enhanced by creation of a program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education costs in the Commonwealth and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for such future higher education application represents the carrying out of a valid and vital public purpose of the Commonwealth. In order to make available to the citizens of the Commonwealth an opportunity to fund future higher education needs for beneficiaries with certain public assistance, it is necessary that a public trust be established in which the citizens of the Commonwealth and others may invest moneys for future educational use. It is further necessary to establish and create an endowment ***trust*** [~~fund~~], which may be funded with public funds, among other sources, the income from which will be made available to participants in the ***savings plan*** trust to enhance their savings invested for future higher education costs.

(3) It is the intent of the General Assembly of the Commonwealth of Kentucky to create the Kentucky Educational Savings Plan Trust with ***a separate*** [~~an~~] endowment ***trust*** to enhance the investment return of the ***savings plan*** trust. The implementation and effectuation of the Kentucky Educational Savings Plan Trust as provided by KRS 164A.310 to 164A.380 constitutes the carrying out of a valid and vital public purpose for which public funds of the Commonwealth may be expended.

Section 3. KRS 164A.305 is amended to read as follows:

As used in KRS 164A.300 to 164A.380, except where the context clearly requires another interpretation:

(1) "Act" means the Kentucky Educational Savings Plan Trust Act ***codified at KRS 164A.300 to 164A.380***;

(2) "Administrative fund" means the funds used to administer the Kentucky Educational Savings Plan Trust;

(3) "Beneficiary" means any person designated by a participation agreement to benefit from payments for higher education costs at an institution of higher education;

(4) "Benefits" means the payment of higher education costs on behalf of a beneficiary by the ***savings plan*** trust during the beneficiary's attendance at an institution of higher education;

(5) "Board" means the board of directors of the Kentucky ***Higher Education Assistance Authority*** [~~Educational Savings Plan Trust~~];

(6) "Endowment ***trust*** fund" means the endowment fund established ***pursuant to Section 1 of this Act*** [~~by KRS 164A.335~~] which shall be ***administered*** [~~held~~] as a separate [~~fund within the~~] trust;

(7) "Higher education costs" means the certified costs of tuition, fees, room and board, or any of the foregoing, for attendance at an institution of higher education;

(8) "Institution of higher education" means a two (2) year or four (4) year public or regionally accredited private or nonprofit college, university, or vocational-technical school;

(9) "Kentucky Educational Savings Plan Trust" or "***savings plan*** trust" means the trust created ***pursuant to KRS 164A.310*** [~~by KRS 164A.300 to 164A.380~~];

(10) "Participant" means an individual, firm, corporation or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to KRS 164A.300 to 164A.380 for the advance payment of higher education costs on behalf of a beneficiary;

(11) "Participation agreement" means an agreement between a participant and the ***savings plan*** trust, pursuant to and conforming with the requirements of KRS 164A.300 to 164A.380;

(12) "Program administrator" means the administrator of the ***savings plan*** trust appointed by the board to administer and manage the trust;

(13) "Program fund" means the program fund established by KRS 164A.335 which shall be held as a separate fund within the ***savings plan*** trust;

(14) "Tuition" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment;

(15) "Vested participation agreement" means a participation agreement which has been in full force and effect during [~~the vestment period without default;~~

~~(16) "Vestment period" means~~] eight (8) continuous years of residency ***of the beneficiary*** in the Commonwealth while participating in the ***savings plan*** trust.

Section 4. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust. The ***board, in the capacity of trustee,*** [~~trust~~] shall have the power and authority to:

(1) Sue and be sued;

(2) Make and enter into contracts necessary for the administration of the ***savings plan*** trust pursuant to KRS 164A.300 to 164A.380;

(3) Adopt a corporate seal and to change and amend it from time to time;

(4) Invest moneys within the [~~trust, including the~~] program fund [~~and the endowment fund therein,~~] in any investments determined by the board [~~and the Office of Financial Management and Economic Analysis~~] to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the ***savings plan*** trust;

(5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the Commonwealth, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the ***administrative fund or the program*** [~~endowment~~] fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;

(7) Enter into participation agreements with participants;

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in KRS 164A.300 to 164A.380;

(10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;

(11) Make provision for the payment of costs of administration and operation of the ***savings plan*** trust; and

(12) Carry out the duties and obligations of the ***savings plan*** trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the ***savings plan*** trust and KRS 164A.300 to 164A.380.

Section 5. KRS 164A.315 is amended to read as follows:

The ***board*** [~~trust~~] shall ***provide to the endowment trust, by agreement***, [~~for an initial period not exceeding two (2) years, be provided with~~] administrative and clerical support and office facilities and space [~~by the Kentucky Higher Education Assistance Authority~~]. Reasonable charges or fees may be levied against the ***endowment*** trust ***pursuant to the agreement*** [~~during such initial two (2) year period~~] for the services provided by the ***board*** [~~Kentucky Higher Education Assistance Authority~~], the provision of office space and clerical and administrative support being deemed and declared to be provided for a valid public purpose of the Commonwealth. [~~Following such initial two (2) year period the trust shall make arrangements for office, clerical and administrative support as shall be appropriate.~~]

Section 6. KRS 164A.325 is amended to read as follows:

In addition to effectuating and carrying out all of the powers granted by KRS 164A.300 to 164A.380, the board shall have all powers necessary to carry out and effectuate the purposes, objectives, and provisions of KRS 164A.300 to 164A.380 ***pertaining to the savings plan trust***, including, but not limited to, the power to:

(1) [~~Invest assets of the trust as provided by KRS 164A.300 to 164A.380 and~~] Engage investment advisors to assist in the investment of ***savings plan*** trust assets [~~after consultation with the Office of Financial Management and Economic Analysis~~];

(2) Carry out studies and projections in order to advise participants regarding present and estimated future higher education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;

(3) [~~Disburse trust moneys to any institution of higher education in order to provide for payments required by participation agreements for the benefit of beneficiaries;~~

~~(4)~~] Contract for goods and services and engage personnel as necessary, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice, all of which contract obligations and services shall be payable ***from*** [~~out of~~] any moneys of the trust;

(4)[~~(5) Solicit and accept for the benefit of the endowment fund gifts, grants, and other moneys, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency and to~~] Participate in any other way in any federal, state, or local governmental program ***for the benefit of the savings plan trust***;

(5)[~~(6)~~] Promulgate, impose, and collect administrative fees and charges in connection with transactions of the ***savings plan*** trust, and provide for reasonable ***service charges*** [~~penalties~~], including penalties for ***cancellations and late*** [~~delinquent~~] payments in respect of participation agreements;

(6)[~~(7)~~] Procure insurance against any loss in connection with the property, assets or activities of the ***savings plan*** trust;

(7)[~~(8)~~] Administer the funds of the ***savings plan*** trust;

(8)[~~(9)~~] Procure insurance indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the board; ***and***

(9)[~~(10)~~] Promulgate reasonable rules and regulations for the administration of the ***savings plan*** trust[~~; and~~

~~(11) Enter into contracts with institutions of higher education to effectuate the purpose of and powers granted by KRS 164A.300 to 164A.380~~].

Section 7. KRS 164A.330 is amended to read as follows:

The ***savings plan*** trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

(1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans and may contain penalties for failure to make payments when scheduled;

(2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump sum payment participation agreement in connection with which a single, lump sum payment is made by the participant for the benefit of a beneficiary;

(3) The participation agreement shall ***specify*** [~~determine~~] the minimum rate of interest which shall be borne by the investment made by the participant [~~or in lieu thereof shall provide for alternative procedures or contain a specific formula for the calculation of such rate of interest from the date of deposit of moneys by the participant to the scheduled date of maturity of the participation agreement~~];

(4) Beneficiaries designated in participation agreements may be designated from date of birth ***through*** [~~to~~] age ***fourteen (14)*** [~~fifteen (15)~~];

(5) Payment of benefits provided under participation agreements must begin not later than the first full fall academic semester at an institution of higher education following the eighteenth (18) birthday of the subject beneficiary unless the participant notifies the program administrator to the contrary ***prior to the beginning of each academic semester thereafter***[~~. Upon the occurrence of either event, the funds attributable to the participation agreement shall earn interest at the minimum rate of return beginning on a date specified by the participation agreement~~];

(6) The execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:

(a) Be admitted to an institution of higher education;

(b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;

(c) Be allowed to continue attendance at the institution of higher education following admission; or

(d) Graduate from the institution of higher education;

(7) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education ***provided, however, that the substitute beneficiary shall be eligible***;

(8) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries and carry out similar matters;

(9) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky prior to enrollment in any other educational institution; and

(10) Each participation agreement shall provide that the participation agreement may be cancelled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the rules and regulations promulgated by the board.

Section 8. KRS 164A.335 is amended to read as follows:

(1) The board shall segregate moneys received by the ***savings plan*** trust into ***two (2)*** [~~three (3)~~] funds, which shall be identified as the program fund[~~, the endowment fund~~] and the administrative fund. ***Transfers may be made from*** [~~Moneys received into~~] the program fund [~~and the endowment fund may be transferred~~] to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by KRS ***164A.300 to 164A.380*** [~~164A.310 to 164A.325~~]. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070. All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. ***Deposits and interest thereon accumulated on behalf of*** [~~All moneys received by the trust from the proceeds of gifts and other endowments for the purposes of the trust shall be deposited as received into the endowment fund, which shall be promptly invested and accounted for separately. The program fund and the endowment fund shall be separately administered. Any gifts, grants or donations made by any governmental unit or any person, firm, partnership or corporation to the trust for deposit to the endowment fund shall be a grant, gift or donation to the Commonwealth of Kentucky for the accomplishment of a valid public purpose and shall not be included in the income of the donor for Kentucky tax purposes.~~

~~(2) Any person, firm or corporation may make gifts and grants to the endowment fund and require as a condition that the income from the gifts and grants shall be applied only to the benefit of a particular group or class of beneficiaries, such as the beneficiaries of participants who are employees or members of a particular organization; and such special payments shall not affect the rights of all beneficiaries to share in the general unrestricted income of the endowment fund subject to subsection (3) of this section on a basis of pro rata equality with other beneficiaries. Notwithstanding any provisions in any such gifts or grants limiting same to a specific class of beneficiaries, such gifts or grants shall be irrevocable.~~

~~(3) Each beneficiary under a participation agreement shall receive a pro rata interest in the investment income derived by the endowment fund in any year in which moneys are paid under such participation agreement to institutions of higher education in Kentucky for higher education costs. The amount received shall be in the ratio that the principal amount paid by the participant under such participation agreement and interest earned to date thereon bears to the principal amount of all moneys, funds and securities then held in the program fund. At the time any payments or disbursements for higher education costs are due from the trust to any institution of higher education in Kentucky under a participation agreement, the trust shall also pay from endowment fund income such proportionate amount, which shall be transferred directly to the institution of higher education in Kentucky simultaneously with the payment made from the program fund and shall be used for payment of higher education costs of the beneficiary. Moneys accrued by~~] participants in the program fund of the ***savings plan*** trust may be used for payments to any institution of higher education. However, no rights to any moneys derived from the endowment fund shall exist if moneys payable under the participation agreement are paid to an education institution which is not an institution of higher education in Kentucky, as defined by KRS 164A.300 to 164A.380.

Section 9. KRS 164A.345 is amended to read as follows:

(1) Any participant may cancel a participation agreement at will. In the event the participation agreement is cancelled by a participant prior to the expiration of two (2) years from the date of original execution of the participation agreement, there shall be refunded to the participant one hundred percent (100%) of the principal amount of all contributions made by the participant [~~with no payment of interest thereon~~], and the participant shall also be required to pay ***an*** [~~a reasonable~~] administrative refund fee ***equal to all interest which has been credited to the participant's account, plus an amount***[~~,~~] which shall be sufficient to reasonably compensate the ***savings plan*** trust for its administrative costs incident to the participation agreement. After a participation agreement has been in effect for two (2) years, participants shall be entitled to the return upon cancellation thereof of the principal amount of all contributions made by participants plus interest on such contributions at the actual rate of interest applicable thereto ***less*** [~~upon the payment of~~] a reasonable

administrative refund fee to be levied by the ***savings plan*** trust, which shall be sufficient to reasonably compensate the trust for its administrative costs incident to the participation agreement.

(2) Upon the occurrence of any of the following circumstances, no reasonable administration refund fee shall be levied by the ***savings plan*** trust in the event of termination of a participation agreement:

(a) Death of the beneficiary;

(b) Failure of the beneficiary to be admitted to an institution of higher education after filing a proper application for admission thereto;

(c) Permanent disability or mental incapacity of the beneficiary; or

(d) Cancellation of a vested participation agreement.

In the event of cancellation of a participation agreement for any of the foregoing causes, the participant shall be entitled to receive the principal amount of all payments made by the participant under the participation agreement and the actual interest earned on the payments.

Section 10. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

(1) The participant shall retain ownership of all payments made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the payments made by the participant shall be deemed to be held in trust [~~for the trust until the date of payment for higher education costs and thereafter~~] for the benefit of the beneficiary;

(2) In the event the participation agreement is terminated prior to payment of higher education costs for the beneficiary, the participant shall retain ownership of all payments made under the participation agreement ***and a reversionary right to receive*** [~~plus~~] interest on all the payments at the rate of interest at which the payments were invested, except ***that no right to receive interest shall exist in*** cases of voluntary participant termination ***except as provided in Section 8(1)*** [~~within two (2) years from the date of the participation agreement, less a reasonable administrative refund fee of the trust; or, if the participation agreement is terminated after partial utilization of benefits for the beneficiary, on a pro rata basis based upon the foregoing~~];

(3) ***If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant;***

(4) The institution of higher education shall obtain ownership of the payments made for the higher education costs paid to the institution at the time each payment is made to the institution; [~~and~~]

(5)[~~(4)~~] Any amounts which may be paid pursuant to the Kentucky educational savings plan trust which are not listed in this section, shall be owned by the trust***; and***

(6) A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to KRS Chapter 385, in accordance with administrative regulations promulgated by the board or the terms of the participation agreement.

Section 11. KRS 164A.365 is amended to read as follows:

(1) The ***board shall submit an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the savings plan trust by the first day of November to the Governor, the General Assembly, and the Auditor of Public Accounts. The annual audit shall be made by an independent certified public accountant and*** [~~program administrator, on behalf of the Kentucky Educational Savings Plan Trust, shall submit annually, by the first day of October, a complete report of its operations for the preceding calendar year to the Governor, the General Assembly, and the State Auditor of Public Accounts. The financial information required by this section shall be verified by the Auditor of Public Accounts as provided in KRS 43.050.~~

~~(2) The report shall include a detailed financial statement of the trust and the expenses incurred so that the cost of the fund can be determined and identified. The report~~] shall include, but not be limited to, [~~the following information concerning the trust:~~

~~(a) Assets and liabilities;~~

~~(b) Income and expenditures; and~~

~~(c)~~] direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(2) The annual audit shall be supplemented by the following information prepared by the board:

(a) Any studies or evaluations prepared in the preceding year;

(b) A summary of the benefits provided by the trusts including the number of participants and beneficiaries in the trust; and

[~~(3) The report shall also contain the following information:~~

~~(a) The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year;~~

~~(b) A description of the benefits provided by the trust and the number of participants in the trust; and~~]

(c) Any other information which is relevant in order to make a full, fair, and effective disclosure of the operations of the ***savings plan*** trust ***and the endowment trust.***

[~~(4) The trust shall have prepared every year, by a competent auditor familiar with trust funds, a report showing a complete evaluation of the trust and the adequacy of the rates of investments, which report shall contain such recommendations as the auditor considers advisable. The trust may at any time request the auditor to make any studies or evaluations to determine the adequacy of the rates of contribution, and such rates may be adjusted by the trust, as recommended by the auditor, effective as of the first of any fiscal year thereafter.~~]

Section 12. The General Assembly confirms the reorganization of the Kentucky Educational Savings Plan Trust by Executive Order 90-433 issued on May 10, 1990, to the extent it is not otherwise confirmed by this Act.

Section 13. The following KRS sections are repealed:

164A.320 Board of the trust — Membership — Terms — Meetings.

164A.340 Substitution of beneficiaries.

HB 624, AN ACT relating to police payroll deductions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year

other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges. ***No service fees or charges shall be imposed for deducting the dues of a police union or police fraternal organization from the payroll of the Kentucky State Police or the Corrections Cabinet.***

(6) The Department of Information Systems may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, Department of Information Systems' operating account.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65.005 TO 65.158 IS CREATED TO READ AS FOLLOWS:

No city, county, urban-county government, or charter county government shall impose service fees or charges for deducting the dues of a police union or police fraternal organization from a police payroll.

HCR 118, A CONCURRENT RESOLUTION recognizing Dick Frymire as state folklorist and state treeologist.

WHEREAS, Dick Frymire is recognized nationally as an authority on folklore; and

WHEREAS, Dick Frymire has authored ***The World According to Dick Frymire, The World According to Dick Frymire D.B.S. Volume II***, and ***Frymire Light*** which have dispensed folk humor, folk medicine, and friendly advice; and

WHEREAS, Dick Frymire and Ted the Rooster, pet prognosticator supreme, have brought laughter and joy to all Kentuckians with their predictions of the outcomes of sporting events; and

WHEREAS, Dick Frymire periodically releases longrange weather forecasts which are eagerly awaited in all corners of the Commonwealth; and

WHEREAS, Dick Frymire has appeared on the Tonight Show, Late Night With David Letterman, the Charles Kuralt Show, and does a weekly program on WLAP in Lexington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That Dick Frymire is designated and recognized as the State Folklorist of Kentucky.

Section 2. That Dick Frymire is also designated and recognized as the State Treeologist of Kentucky.

Section 3. That the Clerk of the Senate shall forward a copy of this Resolution to Mr. L.H. "Dick" Frymire, 314 North Chestnut Street, Post Office Box 33, Irvington, Kentucky 40146-0033.

HJR 121, A JOINT RESOLUTION recognizing The Lincoln Museum, Inc. as Kentucky's official museum honoring President Abraham Lincoln.

WHEREAS, The Lincoln Museum, Inc. was organized on May 13, 1988, as a nonprofit corporation, and on February 8, 1990, The Lincoln Museum, Inc. was recognized as a Section 501(c)(3) organization by the Internal Revenue Service; and

WHEREAS, The Lincoln Museum, Inc. is located in the heart of Hodgenville's downtown Historic District and the museum building is listed on the National Register of Historic Places; and

WHEREAS, The Lincoln Museum is the only museum in Kentucky that is dedicated to the memory, ideals, and promotion of Kentucky's most famous native son;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That The Lincoln Museum, Inc. has hosted people from all 50 states in the United States and over 54 foreign countries.

Section 2. That The Lincoln Museum, Inc. has an outreach program which allows thousands of Kentucky's school children to participate in the educational and cultural exhibits the museum offers.

Section 3. That the General Assembly of the Commonwealth of Kentucky proudly honors The Lincoln Museum, Inc. for its preservation of President Abraham Lincoln memorabilia and the excellent quality of exhibits that are being displayed.

Section 4. That the General Assembly of the Commonwealth of Kentucky recognizes The Lincoln Museum, Inc. as Kentucky's official museum honoring President Abraham Lincoln.

Section 5. That a copy of this Resolution be transmitted to Mr. Damon R. Talley, Chairman, The Lincoln Museum, Inc., 66 Lincoln Square, P.O. Box 176, Hodgenville, Kentucky 42748.

SB 99, AN ACT relating to statutes affected by the reduction of United States Congressional districts from seven to six.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the

insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven ***Supreme Court*** [~~Congressional~~] districts, members representing state government from each of the seven ***Supreme Court*** [~~Congressional~~] districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from

a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 2. KRS 132.380 is amended to read as follows:

(1) Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except as a candidate to succeed himself in office, or before he may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, he shall hold a certificate issued by the Revenue Cabinet, showing that he has been examined by it and that he is qualified for the office. All certificates issued shall expire one (1) year from the date of issuance. The examinations shall be both written and oral and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator. The Revenue Cabinet shall hold such examinations in at least one (1) place in each ***Supreme Court*** [~~congressional~~] district during the month of October of each year immediately preceding each year in which property valuation administrators are to be elected. The Revenue Cabinet shall advise each county attorney of the time and place of the examination, and the county attorney shall post a notice thereof in a conspicuous place in the courthouse two (2) weeks before such examination is given. Any person desiring to take such examination shall appear at the time and place designated.

(2) If, after the giving of the examination, as provided in subsection (1), there is only one (1) person qualified to be a candidate in the county, the Revenue Cabinet shall hold a second examination prior to the filing date in each ***Supreme Court*** [~~congressional~~] district where necessary. Applicants from only those counties having not more than one (1) person qualified shall be eligible to take the examination. Notice of the second examination shall be posted in the manner provided in subsection (1).

(3) Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the Revenue Cabinet may hold a special examination for applicants seeking a certificate for the office. If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination. Special examinations shall be held in the same manner as regular examinations.

(4) Examinations shall be given and graded in accordance with rules of the cabinet published to the applicant at the time of the examination. Within thirty (30) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the Revenue Cabinet to each person passing the examination.

(5) Examination records shall be preserved by the cabinet for twelve (12) months after the examination, and the record of any person who took the examination may be seen by him at the office of the Revenue Cabinet in Frankfort, Kentucky.

Section 3. KRS 164.010 is amended to read as follows:

There shall be a Council on Higher Education in Kentucky, appointed for a term of office created by the General Assembly pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the chief state school officer, and seventeen (17) lay members appointed by the Governor, one (1) from each ***Supreme Court*** [~~congressional~~] district, ten (10) from the state at large which shall include a student member. The student member shall be enrolled as a full-time student at a state public institution of higher education, shall be a resident of the Commonwealth as determined by the residency guidelines of the council, and shall be selected annually in the following manner: not later than August 1, 1990, and not later than June 1 of each year thereafter the eight (8) student body presidents of the four-year state public institutions of higher education and one (1) representative of the community college student body presidents elected from among themselves shall elect by majority vote of the nine (9) presidents three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member not later than September 1, 1990, and not later than July 1 each year thereafter. Among the lay members, there shall be at least one (1) undergraduate degree recipient from each of the state universities to be appointed by the Governor. The lay members shall constitute the voting membership of the council. The lay members shall be appointed for regular terms of four (4) years except for the student member who shall serve a one (1) year term, with the initial appointment of four (4) members for one (1) year, four (4) members for two (2) years, four (4) members for three (3) years, and four (4) members for four (4) years. When a lay member's term expires after July 13, 1990, the member appointed by the Governor to fill the vacancy shall be appointed for a six (6) year term. Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky shall be ineligible for membership or appointment on the council during his membership or term of office. When the council meets to consider curricula for teacher education, three (3) persons who are from accredited institutions of higher learning, and who have been appointed by the executive committee of the Kentucky Association of Colleges, Secondary and Elementary Schools, shall be invited to meet with the council in an advisory capacity.

Section 4. KRS 164.475 is amended to read as follows:

(1) The boards of trustees of the state colleges and universities offering degree programs in medicine or dentistry shall allocate seventy percent (70%) of the enrollment positions for the entering class each year, equally among each of the Kentucky ***Supreme Court*** [~~congressional~~] districts, using the population of each ***Supreme Court*** [~~congressional~~] district as determined by the last decennial federal census to determine that district's proportion of the positions, and shall assign these apportioned enrollment positions for each district to those applicants who are legal residents in that ***Supreme Court*** [~~congressional~~] district.

(2) Fifteen percent (15%) of the remaining positions shall be allocated to the state at-large and assigned to applicants who are legal residents at any place within the State of Kentucky.

(3) Any qualified legal resident shall have a preference in securing an assignment to a position when compared to a nonresident.

(4) The total number of nonresidents assigned positions shall not exceed fifteen percent (15%) of the total entering class enrollment positions assigned for any school year.

(5) The selection of entering class medical, dental or law students shall be accomplished competitively with due consideration being given scholastic standings, recommendations of the pre-professional advisory committees of the various schools where the applicants pursue the pre-professional academic program, and their performance on any required admission test, and any other procedures that deal fairly with the applicant group as a whole.

Section 5. KRS 190.058 is amended to read as follows:

(1) The Motor Vehicle Commission is hereby created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by this section.

(2) ***The commission shall consist of twelve (12) members, eleven of whom shall be appointed by the Governor and the twelfth shall be the commissioner of the Department of Vehicle Regulation. The appointed members shall be:***

(a) One (1) representative of an automobile manufacturer;

(b) One (1) representative of automobile wholesalers;

(c) One (1) representative of consumers who shall have no direct financial interest in the industry;

(d) Four (4) new motor vehicle dealers, but no more than two (2) shall represent the same automobile manufacturer as a franchise dealer;

(e) Four (4) used motor vehicle dealers.

(3) In addition to the requirements of membership on the commission in subsection (2), the following requirements shall apply to the composition of the commission:

(a) No more than seven (7) members shall be from the same political party; and

(b) From the eight (8) members specified in subsection (2) (d) and (e), seven (7) shall be from separate Supreme Court districts.

(4) Each member shall serve for a term of three (3) years. The staggered terms of membership dating from the gubernatorial appointments of July 15, 1982, shall remain in effect. [~~The commission shall consist of twelve (12) members, eleven (11) of whom are to be appointed by the Governor and each of whom must reside in a separate federal congressional district, except the commissioner, the members representing manufacturers, dealers and consumers, and one (1) other, who shall serve as the twelfth member of the commission. No more than seven (7) members of the commission shall belong to any one (1) political party, and four (4) members shall be new motor vehicle dealers and four (4) members shall be used motor vehicle dealers. Of those members of the commission who are new motor vehicle dealers, no more than two (2) shall represent the same automobile manufacturer as a franchise dealer.~~]

(5)[~~(3)~~] (a) Members of the commission qualify by taking the constitutional oath of office which shall, with the certificate of appointment, be evidence of the authority of the member to act.

(b) Each member of the commission shall be entitled to two hundred dollars ($200) per day for each day actually engaged in the duties of the office, including time spent in necessary travel to and from meetings and otherwise, together with all travel and other necessary expenses incurred while performing official duties.

[~~(4) Upon July 15, 1982, the Governor shall appoint two (2) members of the board to serve for a period of one (1) year; three (3) members to serve for a period of two (2) years; and three (3) members to serve for a period of three (3) years. Thereafter, their successors in office shall be appointed by the Governor for a term of three (3) years each. One (1) member shall be a representative of an automobile manufacturer. One (1) member shall be a representative of automobile wholesalers. One (1) member shall be a person with no direct financial interest in the industry.~~]

(6)[~~(5)~~] The commission shall hold a regular annual meeting in September of each year and elect a chairman and vice chairman to serve for the ensuing year. The commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any five (5) members. Reasonable notice of all meetings shall be given as commission rules prescribe. A majority of the commission, including the public member, shall constitute a quorum.

(7)[~~(6)~~] The commission shall employ an executive director who shall be the chief administrative officer of the commission, who shall maintain all minutes of the commission proceedings and who shall be custodian of the files and records of the commission. The executive director shall employ the staff authorized by the commission. The commission may, by interagency contract, utilize assistance of any state agency.

(8)[~~(7)~~] The commission shall deposit all moneys received by it from license fees paid under this law with the State Treasurer, who shall keep them in a separate fund to be known as the "motor vehicle commission fund." The commission may use this fund for salaries, wages, per diem, professional and consulting fees, grants, loans, contracts, travel expenses, equipment, office rent and expenses and other necessary expenses incurred in carrying out its duties under this section as provided by legislative appropriation. At the close of each biennium, the unexpended balance remaining in the motor vehicle commission fund shall be transferred to the general fund.

(9)[~~(8)~~] The commission shall administer the provisions of this section, establish the qualifications of manufacturers and dealers, and insure that the distribution and sale of new motor vehicles is conducted as provided herein, and under the commission's rules.

(10)[~~(9)~~] The commission is authorized to issue orders and make determinations as may be necessary to carry out the provisions of KRS 190.010 to 190.080. The orders shall set forth the findings on which the order is based, and the reason for the particular action taken. All orders shall be signed by the chairman or vice chairman and attested by the executive director.

(11)[~~(10)~~] The commission may hold hearings, administer oaths, receive evidence, issue subpoenas to compel the attendance of witnesses and the production of documents related to the hearing and make findings of fact and decisions in administering the provisions of KRS 190.010 to 190.080 and the rules, orders and other actions of the commission.

(12)[~~(11)~~] The commission may cause legal proceedings to be instituted to enforce the provisions of this section and its rules, orders and decisions. Should it appear from any investigation of a possible violation of any other law or regulation that a violation of the provisions of KRS 190.010 to 190.080 may have occurred, the matter shall be referred to the commission to determine whether proceedings under KRS 190.010 to 190.080 are appropriate. The commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

(13)[~~(12)~~] The availability of administrative procedures under this section shall not preclude the utilization of other remedies for violation of the provisions of this chapter which are available to the affected parties, including actions for injunctive relief.

Section 6. KRS 198A.080 is amended to read as follows:

(1) There is hereby created and established a loan fund to be known as the housing development fund and to be administered by the corporation as a trust fund separate and distinct from all other moneys, funds or assets administered by the corporation.

(2) The housing development fund shall be comprised of and the corporation is hereby authorized to receive and accept for the housing development fund the proceeds of grants, contributions, appropriations, repayment of loans made from the fund, the proceeds of fund notes and any other moneys which may be made available to the corporation for the purposes of the housing development fund from any other source. The corporation is hereby authorized to receive and accept from any source whatever any grants or contributions for the housing development fund. The corporation is authorized to provide for the issuance, at one time or from time to time, of housing development fund notes for the purpose of providing funds for such fund; provided, however, that not more than $5,000,000 fund notes or other borrowings shall be outstanding at any one time. The principal of and the interest on any such fund notes shall be payable solely from the housing development fund. The fund notes of each issue shall be dated, shall mature at such time or times not exceeding ten years from their date or dates, and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state or any agent, including the lender. In case any officer whose signature or a facsimile of whose signature shall appear on any fund notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon fund notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Any such fund notes shall bear interest at such rate or rates as may be determined by the corporation and may be sold in such manner, either at public or private sale, and for such price as the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter.

(3) The proceeds of any fund notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the corporation may provide in the resolution authorizing the issuance of such fund notes. The corporation may provide for the replacement of any fund notes which shall become mutilated or shall be destroyed or lost.

(4) Fund notes may be issued under the provisions of this section without obtaining the consent of any department, division, commission, board, body, bureau or agency of the state, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this chapter and the provisions of the resolution authorizing the issuance of such fund notes.

(5) The purpose of the housing development fund is to provide a source from which the corporation may make loans and grants, and the corporation is authorized to make loans and grants from the housing development fund, at such interest rate or rates and such term or terms as may be determined by the corporation to be for the best interest of the corporation and best effectuate the purpose of this chapter, and with such security for repayment as the corporation deems reasonably necessary and practicable, to:

(a) Defray development costs of sponsors, builders and developers of residential housing, or

(b) Provide to persons and families of lower and moderate income who are applying for mortgages, either for purchase or rehabilitation of residential housing the amounts required to make down payments, pay closing costs, or make interest payments, or

(c) Make or participate in the making of construction loans which are not federally insured to sponsors, builders and developers of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(6) No temporary loans shall be made by the corporation from the housing development fund except in accordance with a written agreement which shall include, without limitation, the following terms and conditions:

(a) The proceeds of such loan shall be used only for the purpose for which such loan shall have been made as provided in the agreement;

(b) Such loan shall be repaid in full as provided in the agreement;

(c) All repayments in connection with a loan to defray development costs shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage loan, as the case may be, or at such other times as the corporation deems reasonably necessary or practicable; and

(d) Such security for repayment shall be specified and shall be upon such terms and conditions as the corporation deems reasonably necessary or practicable to insure all repayments.

(7) No funds from the housing development fund shall be used to carry on propaganda or otherwise attempt to influence legislation.

(8) (a) Notwithstanding other provisions of this section, the corporation may make loans secured by a mortgage from the housing development fund to enable a person sixty-two (62) years of age or older who owns the home in which he resides, whose income combined with his spouse does not exceed six thousand dollars ($6,000), and who meets any other reasonable standards established by the corporation to make repairs to his home including but not limited to siding, weatherstripping, roofing, gutters, electrical wiring, plumbing, and installation of sewers.

(b) The maximum principal amount of such loans shall not exceed seven thousand dollars ($7,000) and the maximum interest rate shall not exceed three percent (3%). All loans shall be repayable over a period of thirty (30) years. Upon the death of the borrowers prior to maturity, the unpaid balance shall be paid in full by the person to whom the house has passed by devise or descent.

(c) The corporation shall make loans under this section in an equal number in each of the ***six (6)*** [~~seven (7)~~] congressional districts.

Section 7. KRS 247.417 is amended to read as follows:

(1) The membership of the council shall consist of the Lieutenant Governor, the Commissioner of Agriculture, the secretary of the Cabinet for Economic Development, and eighteen (18) citizen members, a majority of whom shall be full-time farmers, appointed by the Commissioner of Agriculture. Two (2) members shall be appointed from each ***Supreme Court*** [~~congressional~~] district and four (4) from the state at large. All members shall serve at the Commissioner's will during his incumbency, and until each member's successor is appointed.

(2) The Commissioner of Agriculture shall serve as chairman of the council. The council may elect by majority vote a vice chairman and such officers of the council as may be deemed necessary.

(3) Citizen members of the council shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the council, and shall be reimbursed by the Commissioner's Office for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45.

(4) The council shall meet at the call of the chairman, but not less often than four (4) times during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

Section 8. KRS 344.150 is amended to read as follows:

There is hereby created a Commission on Human Rights. The commission shall consist of eleven (11) members, one (1) to be appointed from each ***Supreme Court*** [~~congressional~~] district and four (4) from the state at large. The Governor shall appoint all members, and shall name one (1) member as chairman. Of the eleven (11) members first appointed, three (3) shall serve for one (1) year, four (4) for two (2) years and four (4) for three (3) years. Thereafter all members of the commission shall be appointed for three (3) years, and shall continue to serve until reappointed or replaced. In the event of the death or resignation of a member, his successor shall be appointed to serve the unexpired term for which such member had been appointed.

Section 9. The terms of current members on the boards, commissions, and councils treated by statutes amended by this Act shall continue in force. When a vacancy occurs for a member appointed to be the representatives of one of the former seven congressional districts, whether by resignation, death, expiration of term, or otherwise, the vacancy shall be filled as follows:

(1) A vacancy from the former First Congressional District shall be filled by an appointee from the current First Supreme Court District.

(2) A vacancy from the former Second Congressional District shall be filled by an appointee from the current Second Supreme Court District.

(3) A vacancy from the former Third Congressional District shall be filled by an appointee from the current Fourth Supreme Court District.

(4) A vacancy from the former Fourth Congressional District shall be filled by an appointee from the current Sixth Supreme Court District.

(5) A vacancy from the former Fifth Congressional District shall be filled by an appointee from the current Third Supreme Court District.

(6) A vacancy from the former Sixth Congressional District shall be filled by an appointee from the current Fifth Supreme Court district.

(7) A vacancy from the former Seventh Congressional District shall be filled by an appointee from the current Seventh Supreme Court District.

SB 107, AN ACT relating to appointments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.160 is amended to read as follows:

(1) When a statute specifically requires Senate confirmation of an appointment by the Governor ***or by other appointing authority***, the appointment shall be handled in the following manner:

(a)[~~(1)~~] All names of persons ***nominated*** [~~appointed~~] when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. ***The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the Senate upon appointment or no later than the fifteenth legislative day of the next regular session of the General Assembly.*** The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(b)[~~(2)~~] ***All names of*** persons ***nominated*** [~~appointed~~] to [~~such~~] positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

[~~(3) If a person was appointed when the General Assembly was not in regular session, the Governor shall deliver the name of the appointee, together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate no later than the fifteenth legislative day of the next regular session of the General Assembly.~~

~~(4) When an appointment is made by~~] The Governor ***who makes the appointment, or other appointing authority,*** [~~during a regular session of the General Assembly, he~~] shall submit the name of the ***nominee*** [~~appointee~~], together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the ***nominee's*** [~~appointee's~~] name and information shall be submitted not more than one (1) legislative day later.

(c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the Senate a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:

1. Complete employment history of the nominee;

2. Complete educational background of the nominee; and

3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.

(d) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The state police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.

(e) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.

(f)[~~(5)~~] If the Governor ***who makes the appointment, or other appointing authority,*** fails to submit the name ***of the nominee*** or if the Senate declines ***to consider*** [~~or fails to confirm~~] a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed. ***If the Senate declines to confirm the nominee, the position shall become vacant upon the date the Senate declined to confirm.***

(g)[~~(6)~~] Any person not confirmed by the Senate shall not be reappointed by the Governor, ***or other appointing authority,*** to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined ***to confirm*** the nomination or the date of sine die adjournment if the Senate ***declined*** [~~failed~~] to ***consider the nomination*** [~~confirm~~].

(2) When a statute specifically requires Senate and House of Representatives confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

(a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the House of Representatives no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

(b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session. The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee to the clerk of the House of Representatives not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

(c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the House of Representatives a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:

1. Complete employment history of the nominee;

2. Complete educational background of the nominee; and

3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.

(d) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The state police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.

(e) The confirmation shall originate in the House of Representatives. If the House of Representatives does not confirm an appointment, the Senate shall not consider the appointment.

(f) When both the Senate and the House of Representatives have confirmed an appointment, the Senate shall notify the House of Representatives of the final approval. The clerk of the House shall then notify the Governor, or other appointing authority, and the appointee in writing of the General Assembly's action.

(g) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that

they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.

(h) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the House of Representatives or the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed. If the House of Representatives or the Senate declines to confirm the nominee, the position shall become vacant upon the date that a chamber of the General Assembly first declined to confirm.

(i) Any person not confirmed by the House of Representatives or the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date that a chamber of the General Assembly first declined to confirm the nomination, or the date of sine die adjournment if the House of Representatives or the Senate declined to consider the nomination.

Section 2. KRS 156.029 is amended to read as follows:

(1) There is hereby established a State Board for Elementary and Secondary Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the executive director of the Council on Higher Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation ***in accordance with KRS 11.160*** [~~by February 1 in each year that a regular session of the General Assembly convenes~~]. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

Section 3. KRS 156.665 is amended to read as follows:

(1) There is hereby established the Council for Education Technology which shall be an advisory group attached to the State Board for Elementary and Secondary Education. The Council shall develop a specific plan for education technology within broad parameters established by the State Board for Elementary and Secondary Education.

(2) The council shall consist of nine (9) members who shall be appointed by the Governor upon July 13, 1990, with the consent of the House of Representatives and the Senate. ***Appointments shall be submitted to the Senate and the House of Representatives for confirmation in accordance with KRS 11.160.*** [~~If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.~~] Members shall be acknowledged leaders

in research, technology, economic development, education, and business. Membership shall not be restricted to Kentucky residents, and every effort shall be made to obtain the services of those whose intelligence and knowledge of education and technology will be of greatest benefit to the Commonwealth. A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. Upon July 13, 1990, the initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; three (3) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(5) At the organizational meeting, or at any subsequent meeting, the council may elect an executive committee, not fewer than three (3) in number. The council shall define the scope, duties, and powers of the executive committee to transact business between meetings.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The State Board for Elementary and Secondary Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Developing a long-range plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, instructional management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;

(b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;

(c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;

(d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;

(e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and

(f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

The Committee Amendment No. 1 to **SB 107** is as follows:

Amend printed copy of **SB 107** as follows:

On page 3, line 16, by adding the following after "***Commission.***":

Upon his appointment, each nominee shall be asked by the appointing authority to sign a waiver permitting the Legislative Research Commission to have access to the nominee's educational and criminal records, and permitting the public discussion of any information acquired by the clerk of the Senate and the Legislative Research Commission pursuant to this paragraph and paragraph (c) of this subsection. The signed waiver shall accompany the letter of appointment delivered to the clerk under paragraph (c) of this subsection."; and

On page 6, line 17, by adding the following after "***Commission.***":

"Upon his appointment, each nominee shall be asked by the appointing authority to sign a waiver permitting the Legislative Research Commission to have access to the nominee's educational and criminal records, and permitting the public discussion of any information acquired by the clerk of the House of Representatives and the Legislative Research Commission pursuant to this paragraph and paragraph (c) of this subsection. The signed waiver shall accompany the letter of appointment delivered to the clerk under paragraph (c) of this subsection."

The Committee on Elections and Constitutional Amendments reported **HB 230**, with Committee Amendment and Title Amendment attached thereto, **HB 516**, **HB 534** and **SB 55** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 230, AN ACT relating to proposed amendments to the Kentucky Constitution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.415 is amended to read as follows:

(1) When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made at least one hundred (100) days preceding the election at which the amendment is to be voted on.

(2) ***As a non-codified section of a bill in which an amendment to the Constitution is proposed, the General Assembly*** [~~The Attorney General~~] shall state the substance of the amendment in the form of a question in ***simplified language*** [~~a manner~~] calculated to inform the electorate of the substance of the amendment, and shall certify the question to the State Board of Elections to be placed on the voting machine. The State Board of Elections, not less than seventy (70) days before the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the ***General Assembly*** [~~Attorney General~~], to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed and certified to the State Board of Elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

The Committee Amendment No. 1 to **HB 230** is as follows:

Amend printed copy of **HB 230** as follows:

On page 2, after line 19, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

When a question, other than a proposed constitutional amendment, is to appear on the ballot for ratification or rejection by the voters, the following provisions shall apply:

(1) The question shall meet all statutory requirements applicable to the specific issue;

(2) The question shall be presented in simplified language easily understandable by the voters in the area; and

(3) The question, as phrased, shall not be misleading and shall be stated so as to clearly indicate to the voters the meaning of a "yes" or "no" vote."

The Committee Title Amendment to **HB 230** is as follows:

Amend printed copy of **HB 230** as follows:

On page 1, by amending the title to read as follows:

"AN ACT relating to the manner in which questions shall appear on the ballot for ratification or rejection by the voters."

HB 516, AN ACT relating to nonpartisan candidates for municipal office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

The provisions of any other provision to the contrary notwithstanding, in a nonpartisan primary for a judicial or municipal office, exclusive of races for legislative body seats for which candidates run at large, a candidate who receives fifty-one percent (51%) or more of the votes cast for that office in the primary shall appear as the only candidate on the ballot for that office at the regular election. Unless a write-in candidate receives more votes, the candidate whose name appears on the ballot at the regular election shall be certified as the winner.

Section 2. Section 1 of this Act shall first apply to the primary election held in May, 1993.

HB 534, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the ***Secretary of State or county clerk, as appropriate,*** [~~proper officer~~] at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. The notification and declaration shall include the following oath:

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ________ Party, I, ________ (name in full as desired on the ballot ***as provided in Section 2 of this Act***), do solemnly swear that I reside at No. ________ street in the City of ________, State of Kentucky, and that I am a registered ________ (party) voter in ________ precinct, City of ________; that I believe in the principles of the ________ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of ________ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the ***Secretary of State or county clerk, as appropriate*** [~~proper officer~~], and certified according to KRS 118.165, the ***Secretary of State or county clerk, as appropriate,*** [~~officer~~] shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State or the county clerk, as appropriate, shall certify the exact spelling and form of the name of the candidate to be printed on all ballots in accordance with the requirements listed in this section.

(2) A candidate's nickname which is found to be, in the discretion of the Secretary of State or the county clerk, as appropriate, a title, rank, degree, job description, or spurious phrase shall be placed on the ballot only if it is the candidate's bona fide nickname, generally used by acquaintances of the candidate in the county of residence to refer to the candidate, and if the nickname is acknowledged, by affidavit, under oath, by five (5) residents of the county in which the candidate resides, to be a bona fide nickname. The candidate shall also acknowledge, by affidavit under oath, that this is his bona fide nickname and is not being used to gain an advantage on the ballot.

(3) A nickname shall always appear set off in quotation marks and immediately before the last name. Periods shall follow all abbreviations or initials. Additional qualifiers following the last name, such as "Jr" or "III" shall not be separated from the last name by a comma and shall be followed by a period.

(4) The candidate's name shall always appear in the following form: first or given name or initial; middle name or names or initials, if desired by the candidate; nickname if desired by the candidate; and last or surname in full. All names shall be in substantially the following form: John Lincoln "Jack" Doe; or J. Lincoln "Jack" Doe; or J. L. "Jack" Doe Jr.; or any of the above combinations without the intervening nickname.

(5) The total number of spaces, inclusive of letters, spaces, and punctuation, which may be utilized on the ballot for a candidate's name and, if any, nickname, shall be twenty-five (25). Notwithstanding the listing of the candidate's name on the filing papers, spaces, periods, quotation marks, and commas necessary for proper punctuation shall be added by the Secretary of State or the county clerk, as appropriate. No candidate's name shall exceed twenty-five (25) spaces. The Secretary of State or the county clerk, as appropriate, shall determine the correct listing for any candidate whose name exceeds twenty-five (25) spaces to conform to this requirement.

Section 3. This Act shall be effective November 5, 1992.

SB 55, AN ACT relating to absentee ballots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for an absentee ballot containing a verified statement that his inability to appear is due to age, infirmity, or illness. ***The request for the application may be made by telephone, facsimile machine, mail, or in person.*** Upon receipt of the application, the clerk shall immediately mail to the voter an absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 2. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot ***may*** [~~and all applications for an absentee ballot shall~~] be transmitted [~~only~~] by ***telephone, facsimile machine, by*** mail, or in person [~~as specifically provided by this section~~]. ***All applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section.*** Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no absentee ballots shall be mailed to an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application. Application for an absentee ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime may, at any time not less than the close of normal business hours seven (7) days before the election, make application in person or by mail to the county clerk for an absentee ballot. ***Requests for an application for an absentee***

ballot may be transmitted by telephone, facsimile machine, by mail, or in person. [~~All requests for an application for an absentee ballot and~~] All applications for an absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to the voter who appears in person to request the application, or shall mail the application to a voter who requests the application by ***telephone, facsimile machine, or*** mail. The application shall be restricted to use of the voter or the spouse, parents or children of the voter;

(b) ***Any qualified voter in any county who finds, within the last seven (7) days preceding an election, that he shall be unexpectedly absent from the county on election day may apply for and vote by means of an absentee ballot up to the close of normal business hours on the day before the election. The voter shall complete and sign, under penalty of perjury, an affidavit of emergency stating that he had no knowledge of his absence prior to seven (7) days before the election. The application shall be restricted to the use of the voter and the absentee ballot shall be executed in the office of the county clerk during normal business hours.***

(c) Residents of Kentucky who are members of the armed forces, or dependents of members of the armed forces and overseas citizens, may apply for an absentee ballot by means of the federal post-card application. The application may be used to register, reregister and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(d)[~~(c)~~] Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. ***If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment less than seven (7) days prior to the election, such officer may vote by absentee ballot in the county clerk's office up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment.*** The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received an absentee ballot but who knows at least seven (7) days before the date of the election that he shall be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee

ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 3. KRS 117.365 is amended to read as follows:

Upon the first day a grand jury convenes after a primary, general election, or special election, the county clerk shall present to the grand jury all voter assistance forms*,* [~~and~~] all applications for absentee ballots*, **and all emergency absentee ballot affidavits*** which shall have been completed in the immediately preceding primary, general election or special election. ***The clerk shall also present to the grand jury a report of all emergency absentee voters who voted in the election.***

Section 4. KRS 117.995 is amended to read as follows:

(1) Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in this chapter shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

(2) Any county clerk or member of the county board of elections who knowingly and willfully violates any of the provisions of this chapter, including furnishing applications for absentee ballots to persons other than those specified by the provisions of this chapter and failure to type the name of the voter on the application form as required by the provisions of this chapter, shall be guilty of a Class D felony.

(3) Any officer who willfully fails to prepare or furnish ballot labels or absentee ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be guilty of a Class A misdemeanor.

(4) Any election officer who knowingly and willfully violates any of the provisions of this chapter, including failure to enforce the prohibition against electioneering established by KRS 117.235, shall be guilty of a Class D felony.

(5) Any person who signs a name other than his own on an application for an absentee ballot or on the verification form for the ballot ***or on an emergency absentee ballot affidavit***, or any person who votes an absentee ballot other than the one (1) issued in his name, or any person who applies for the ballot for the use of anyone other than himself or the person designated by the provisions of this chapter, or any person who makes a false statement on an application for an absentee ballot ***or on an emergency absentee ballot affidavit*** shall be guilty of a Class D felony.

(6) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day, after he has been duly notified of the provisions by the sheriff of the election precinct, shall, for each offense, be guilty of a Class A misdemeanor.

(7) Any person who knowingly and willfully prepares or assists in the preparation of an inaccurate voter assistance form shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense; however, if a voter has been permanently certified as requiring voting assistance, there shall be no offense for the failure of the voter to complete the form.

The Committee on Natural Resources and Environmental Protection reported **HB 511**, **HB 575**, with Committee Substitute attached thereto, and **HB 593** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 511, AN ACT relating to recycling of waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials: and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the Revenue Cabinet on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Revenue Cabinet may require. The Revenue Cabinet shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

(4) In the case of an S-corporation or partnership the credit approved by the Revenue Cabinet in accordance with subsection (3) of this section shall be apportioned pro rata to each individual or corporation who is a shareholder or partner on the last day of the tax year during which the recycling or composting equipment was purchased. Each individual, corporate shareholder, or partner shall be allowed to claim their pro rata share of the credit against the income tax imposed by this chapter, subject to the limits imposed by subsection (2) of this section, and nothing in this chapter shall be construed to permit any portion of the credit allowed by this section to be claimed against any income tax that may be due from an S-corporation or partnership. Each shareholder's or partner's pro rata share of the credit shall be determined by the same ratio used to determine the shareholder's or partner's share of income, gain, loss, or deductions for the taxable year.

HB 575, AN ACT relating to the issuance of permits by the Natural Resources and Environmental Protection Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Natural Resources and Environmental Protection Cabinet shall promulgate administrative regulations establishing reasonable timetables for the issuance of all permits by the cabinet. The timetables shall set specific time periods for actions to be taken in the consideration of permit applications.

(2) The timetables adopted pursuant to subsection (1) of this section shall be promulgated no later than January 1, 1993. In the event that the timetables required by subsection (1) of this section are not promulgated by the January 1, 1993, deadline, the Natural Resources and Environmental Protection Cabinet shall cease the collection of permit fees for all permits for which timetables have not been established until the required timetables have been properly promulgated.

(3) The cabinet shall waive the permit fee for any permit not acted upon, either favorably or unfavorably, in accordance with the established timetables. The approach of an impending deadline for action on a permit pursuant to the established timetables shall not be a reason for denial of a permit.

The Committee Substitute to **HB 575** is as follows:

HB 575, AN ACT relating to the issuance of permits by the Natural Resources and Environmental Protection Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Natural Resources and Environmental Protection Cabinet shall promulgate administrative regulations establishing reasonable timetables for the issuance of all permits by the cabinet, except those permits for which a timetable for cabinet action is set out by statute. The timetables shall set specific time periods for actions to be taken in the consideration of permit applications.

(2) The timetables adopted pursuant to subsection (1) of this section shall be promulgated no later than January 1, 1993. In the event that the timetables required by subsection (1) of this section are not promulgated by the January 1, 1993, deadline, the Natural Resources and Environmental Protection Cabinet shall cease the collection of permit fees for all permits for which timetables have not been established until the required timetables have been properly promulgated.

(3) The cabinet shall waive the permit fee for any permit not acted upon, either favorably or unfavorably, in accordance with the established timetables. The approach of an impending deadline for action on a permit pursuant to the established timetables shall not be a reason for denial of a permit.

HB 593, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the cabinet, an operator shall prepare and carry out a method of operation, plan of grading and backfilling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, rolling stones and overburden, water pollution, and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant by certified mail, return receipt requested, within sixty-five (65) cumulative working days after receipt of a complete application if it is or is not acceptable. In the event that applicable notice, hearing, and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing, and conference procedures. If the permit application is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application. Should the applicant disagree with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 224.10-440. The cabinet shall notify the applicant by certified mail, return receipt requested, within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 224.10-470***, except that only the Circuit Court of the county in which the mine is located shall be the proper venue of appeal.***

(2) If the operator desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the operator shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

(3) No operator shall throw, dump, pile, or permit the dumping, piling, or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 2. KRS 350.465 is amended to read as follows:

(1) The provisions of this section and ***administrative*** regulations promulgated pursuant thereto***,*** [~~(~~]except with regard to the mining of clay, limestone, sand, gravel, fluorspar, stone, and rock asphalt***,***[~~)~~] shall apply to the regulation of all surface coal mining and reclamation operations in the Commonwealth in the event that the Commonwealth receives from the United States Department of Interior and pursuant to the Surface Mining Control and Reclamation Act of 1977***,*** [~~(~~]P.L.95-87***,***[~~)~~] approval of a permanent state regulatory program, and the Commonwealth has promulgated ***administrative*** regulations pursuant to this section.

(2) The Natural Resources and Environmental Protection Cabinet is hereby authorized and directed to prepare, develop, and promulgate a comprehensive permanent regulatory program for the implementation of the Surface Mining Control and Reclamation Act of 1977, [~~(~~]P.L. 95-87,[~~)~~] for the purpose of accepting and administering primary enforcement responsibilities pursuant to that act. The implementation of this section shall contain procedures similar to the Surface Mining Control and Reclamation Act of 1977, [~~(~~]P.L. 95-87,[~~)~~] and shall require surface coal mining operation performance standards no more stringent than provided for in that act. Nothing ***in this section*** [~~herein~~] shall be construed to empower the cabinet to adopt a regulatory program in conflict with the policy and purposes of the Surface Mining Control and Reclamation Act of 1977, [~~(~~]P.L. 95-87[~~)~~]. To that end, the Natural Resources and Environmental Protection Cabinet shall include in its permanent regulatory program:

(a) Environmental protection performance standards to prevent or minimize the adverse environmental effects of surface coal mining and reclamation operations on the land and water resources of the Commonwealth.

(b) A procedure for designating as being unsuitable for mining certain lands because of their topographical, geological, hydrological, climatological, biological, or chemical characteristics or historical, cultural, scientific, or aesthetic values.

(c) Procedures and regulations for the allowance of those persons having an interest which is or may be adversely affected to have the opportunity to be heard at every significant or critical part of the administrative and judicial process, including, but not limited to, the permit review and issuance process, the general enforcement process and hearings incident thereto, and the rulemaking procedures conducted by the cabinet; and procedures and regulations for persons having a valid legal interest which is or may be adversely affected by the setting, release, and inspection of bonds to have an opportunity to be heard at every significant or critical part of the administrative and judicial process relating to bonds. Such regulations shall provide reasonable procedures for notice and an opportunity to be heard, access to minesites, access to records, and other reasonable procedures to accomplish the purposes of this chapter.

(d) Procedures for the administrative and judicial review of all actions of the cabinet to administer and enforce the provisions of this chapter, including the award of costs and expenses, [~~(~~]including attorney's fees and expert witness fees,[~~)~~] by the cabinet or the court.

(e) Plans and procedures for the reclamation and restoration of land and water resources affected by mining which have been abandoned or inadequately reclaimed to the standards imposed by this section and for which no bond is held or legal obligation to reclaim continues. Such plan shall include provisions for the imposition of liens for necessary reclamation expenditures made on private property.

(f) Procedures for the assumption of the small operator assistance program pursuant to the Surface Mining Control and Reclamation Act of 1977, [~~(~~]P.L. 95-87[~~)~~]. The cabinet shall assume and implement that program and apply for and administer funds as may be provided pursuant to that act and such state funds as may be provided for the program.

(3) In addition to any other authority, power, and duty vested in it by law, the cabinet shall have and exercise broad authority, power, and duty to:

(a) Require those persons who wish to engage in surface coal mining and reclamation operations to submit application for a permit from the cabinet to conduct such operations, and to include in that application all information required by the cabinet pertaining to that operation.

(b) Issue, deny, or modify under such conditions as the cabinet may prescribe, permits to conduct surface coal mining and reclamation operations within the Commonwealth.

(c) Enter and inspect any permitted surface coal mining and reclamation operation or any known or suspected unpermitted mining operation for the purpose of ascertaining compliance with any provision of this chapter or of the permit.

(d) Order the cessation of mining activities, and if necessary impose affirmative abatement obligations, upon the operator when, upon inspection, the cabinet determines that this section or any permit condition is being or has been violated so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth.

(e) Order an operator to comply with the requirements of this section or his permit if inspection reveals a violation of the conditions of his permit or of any provision of this section.

(f) Order an operator to appear and show cause why his permit should not be suspended or revoked and his bond forfeited if the cabinet determines that the operator or the permitted operation has a pattern of violations of this section or permit conditions, and has wilfully violated this section or permit conditions or a pattern of violations exists and that such violations are caused by the permittees' unwarranted failure to comply with this section or permit conditions.

(g) Require, increase, release***,*** or decrease, under such conditions as the cabinet may prescribe reclamation performance bonds and cause the forfeiture and collection of those bonds where the permittee has abandoned the operation or for which the permit under which the bond was given has been revoked or has expired without the required reclamation.

(h) To administratively impose, in lieu of those civil penalties provided for in KRS 350.990, civil penalties of up to five thousand dollars ($5,000) per day for violations of permit conditions, this section, or any orders of the cabinet and enforce the administrative assessment of such penalties by initiating civil action in the [~~Franklin~~] Circuit Court ***of the county in which the mine is located*** [~~or in any court having jurisdiction of the defendant~~].

(i) Conduct hearings and make investigations of any matter relating to the regulation of surface coal mining and reclamation operations, and provide for the assessment and payment of civil penalties including the placement of proposed civil penalty assessments into an escrow account prior to a contest on the amount of the assessment, consistent with the process of law.

(j) Provide for variances or exceptions consistent with KRS 350.450 from or in addition to mining performance standards, recognizing the specific characteristics inherent in:

1. Steep slope mining;

2. Mountaintop removal;

3. Relatively low acreage disturbance or annual coal production;

4. Prime farmland mining as defined by the United States department of agriculture, and to provide for other variances where land uses and watersheds will be improved; and

5. Post-mining uses different from and as beneficial as the pre-mining uses.

(k) Receive and expend funds or aid from whatever source to accomplish the purposes of this chapter.

(l) Propose and promulgate ***administrative*** regulations to accomplish the purposes of this section.

(4) The cabinet shall not promulgate ***administrative*** regulations which are inconsistent with the Surface Mining Control and Reclamation Act of 1977***,*** [~~(~~]P.L. 95-87[~~)~~].

(5) Any person who violates a provision of this section or the ***administrative*** regulations promulgated pursuant thereto shall be subject to those penalties and remedies set forth in KRS 350.990 except as provided for in subsection (3)(h) ***of this section*** [~~herein~~].

Section 3. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or ***administrative*** regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for the violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking

into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Department of Law. The [~~Franklin~~] Circuit Court ***of the county in which the mine is located*** shall hold ***exclusive*** [~~concurrent~~] jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any person or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred and fifty dollars ($750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) The cabinet's Department of Law shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any operator or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The [~~Franklin~~] Circuit Court ***of the county in which the mine is located*** shall hold ***exclusive*** [~~concurrent~~] jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which the violation occurs may constitute a separate offense.

(5) (a) Any person who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony and upon conviction shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(b) Any person who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) When a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(11) The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet Division of Abandoned Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

The Committee on Transportation reported **HB 141**, **HB 198**, with Committee Substitute attached thereto, **HB 216**, **HB 333**, with Committee Substitute attached thereto, **HB 492**, with Committee Substitute attached thereto, **HB 515**, with Committee Substitute attached thereto, and **HCR 49** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 141, AN ACT relating to prisoner of war license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.1701 is amended to read as follows:

(1) Any owner or lessee of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a) who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Viet Nam War, ***or the spouse of a deceased former prisoner of war,*** shall be issued a five (5) year license plate, for either one (1) automobile, or one (1) truck of one-half (1/2) or three-quarter (3/4) ton rating, upon application to the county clerk in the county of his residence and after payment of a twenty-five dollar ($25) state fee and a two dollar ($2) clerk's fee. Application shall be made on a form prescribed by the cabinet and shall be accompanied by written evidence from the United States Veterans Administration or any other appropriate federal agency stating the period of time that the applicant ***or the applicant's spouse*** was a prisoner of war.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors: red, white, and blue. Each tag shall contain the name of the state, the year, the registration number and the words "Former P.O.W." Annually thereafter, upon application to the county clerk of the county of his residence, together with proof that he is a former prisoner of war, ***or the spouse of a deceased former prisoner of war,*** and without payment of the registration fee provided in subsection (1) of this section, the clerk shall issue a new plate, or a renewal decal, as directed by the Transportation Cabinet. For services performed to renew such registration, the clerk shall receive a two dollar ($2) fee.

(3) Upon the sale, transfer or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the prisoner of war license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the prisoner of war plate has been presented to the clerk, he shall reissue same free of charge by the Transportation Cabinet and upon payment of a one dollar ($1) clerk's fee for use on any other vehicle owned or leased by the same person who purchased the prisoner of war plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) In the event a prisoner of war license plate is lost, stolen or mutilated, if the owner or lessee has not transferred a vehicle during the current license period, he may obtain a regular plate free of charge. In the event a prisoner of war license plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner or lessee may obtain a replacement plate free of charge.

(5) Any applicant seeking to obtain a license plate under this section, who has been provided a vehicle pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(6) License plates issued under this section shall expire on December 31.

(7) In the event of the death of a former prisoner of war who died with a vehicle licensed as authorized under this section, that individual's surviving spouse may retain the license plate for use on the same or another vehicle by complying with the requirements for reissuance set forth in subsection (3) of this section. A plate reissued under this subsection may be renewed as provided by subsection (2) of this section.

HB 198, AN ACT relating to motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) ***"Retail price" means the total and actual cash consideration paid or to be paid for the motor vehicle at the time of purchase or at a later date, including all equipment and accessories, standard and optional, and transportation charges, as attested to in an affidavit signed by both the seller and the buyer.***

(5) Any person who willfully and fradulently gives a false statement as to the total and actual cash consideration required in subsection (4) of this section shall be guilty of a Class D felony [~~Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:~~

~~(a) For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;~~

~~(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the value given in such reference manual;~~

~~(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~
~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual;~~

~~(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~

~~(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of such registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of such vehicle shall be the same as the retail price determined in subsection (b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection (d) of this section shall not apply.~~

~~(5) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk~~].

Section 2. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1990, a tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. [~~In the case of trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.~~]

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the

manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4), in no case shall the tax be less than five dollars ($5) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

The Committee Substitute to **HB 198** is as follows:

HB 198, AN ACT relating to motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) ***"Retail price" means the total and actual cash consideration paid or to be paid for the motor vehicle at the time of purchase or at a later date, including all equipment and accessories, standard and optional, and transportation charges, as attested to in an affidavit signed by both the seller and the buyer minus any amount given by the dealer as a trade-in allowance, as attested to in an affidavit signed by both the seller and the buyer. For the purpose of determining retail price under this subsection, the amount given by a dealer as a trade-in allowance shall not be less than the "average trade-in value" that appears in the automotive reference manual prescribed by the cabinet.***

(5) [~~(a)~~] For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges.[;]

(6) Any person who willfully and fradulently gives a false statement as to the total and actual cash consideration required in subsection (4) of this section shall be guilty of a Class D felony [~~Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:~~

~~(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the value given in such reference manual;~~

~~(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~
~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual;~~

~~(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~

~~(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of such registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of such vehicle shall be the same as the retail price determined in subsection (b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection (d) of this section shall not apply.~~

~~(5) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk~~].

Section 2. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1990, a tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. [~~In the case of trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.~~]

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4) ***and (5)***, in no case shall the tax be less than five dollars ($5) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

HB 216, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall allow a credit as provided for in subsection (2) of this section against the ad valorem taxes required to be collected under KRS 134.800.

(2) An individual registering a motor vehicle as provided under KRS 186.115 shall be entitled to a nonrefundable credit against the ad valorem taxes assessed on the motor vehicle being registered. The credit shall be an amount equal to the total amount of Kentucky sales and use taxes paid on the parts used in rebuilding the motor vehicle as shown on the invoices required to be submitted to the county clerk as provided under KRS 186.115.

(3) The credit provided for in subsection (2) of this section shall be allowed only on the initial registration of a motor vehicle under KRS 186.115 and shall be prorated among all taxing jurisdictions on the basis of the percent of each taxing jurisdiction's tax assessment on the motor vehicle to the total tax assessment. The county clerk shall forward a copy of the invoices required by KRS 186.115 to the cabinet.

(4) Any portion of the credit determined to be allowed in error shall become a delinquent ad valorem tax assessment against the individual claiming the credit under subsection (2) of this section.

Section 2. KRS 186.115 is amended to read as follows:

(1) When the owner of a motor vehicle which has been assembled from parts from wrecked or salvaged motor vehicles presents ***the*** [~~such a~~] vehicle for registration, he shall submit an affidavit and any invoices showing the purchase of [~~such~~] parts to the county clerk. The county clerk shall forward the application to the Transportation Cabinet. The cabinet will either authorize or prohibit the clerk from registering the vehicle.

(2) The owner of a motor vehicle being registered under subsection (1) of this section who claims the credit provided for in Section 1 of this Act, shall submit an additional copy of all invoices for parts used in rebuilding the motor vehicle on which Kentucky sales and use taxes have been paid. The county clerk shall forward the invoices to the Revenue Cabinet.

HB 333, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.240 is amended to read as follows:

(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and [~~in so doing it shall~~]:

(a) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260.[~~, provided that~~] The forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county, the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

(b) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and

(c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes ***that*** [~~which~~] shall contain*:*

1. The registration number*;*[~~,~~]

2. The word “Kentucky*;*[~~,~~]” and

3. The name of the county in which the plate is issued*,* or in lieu thereof the words “Official,” “Transportation,” “Executive,” ***or*** “Farm.[~~,~~]” [~~or in the case of~~] Plates for commercial vehicles, ***shall contain the year the license is issued and*** [~~such~~] words or information [~~as~~] the Department of Vehicle Regulation may ***prescribe*** by ***administrative*** regulation***, pursuant to KRS Chapter 13A.*** [~~provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no~~] Numerals indicating ***a*** [~~any~~] year shall ***not*** be placed upon any license plate issued ***pursuant to*** [~~under and in accordance with the provisions of~~] KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and [~~of~~] KRS 186.061, relating to the licensing of vehicles owned exclusively by ***a*** [~~any~~] nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon ***the*** [~~such~~] plate [~~if so desired~~].

(2) [~~All~~] License plates issued pursuant to KRS 186.050(1) [~~after January 1, 1988,~~] shall conform to the provisions of subsection (1)(c) of this section except*:*

(a) [~~that~~] The word “Kentucky” shall be centered above the county name in which the plate is issued;

(b) The words “Bluegrass State” shall be centered at the top of the plate above the registration number*;*[~~,~~] and

(c) The name of the county in which the plate is issued shall be centered in the lower portion of the plate below the registration number and shall be printed in letters ***that*** [~~which~~] are the same size as those used to print the word “Kentucky.” ***Beginning*** [~~After~~] January 1, ***1993*** [~~1988~~], the Transportation Cabinet ***shall***[~~may~~] provide for the issuance of reflectorized plates for [~~any or~~] all motor vehicles, and ***shall***[~~, if reflectorized plates are issued, may~~] collect a fee, in addition to the fee set out in KRS 186.050, of fifty cents ($0.50);

(3) (a) Upon initial application or registration renewal in calendar year 1991, persons registering a motor vehicle according to KRS 186.050(1) or (3)(a) shall receive a “bicentennial” license plate, in lieu of the registration plate described in subsection (2) of this section. Applications shall be accompanied by payment of the regular registration fee*;*[~~.~~]

(b) The "bicentennial" license plate shall be designed by the Bicentennial Commission and approved by the Transportation Cabinet and shall be issued for calendar year 1991 and shall expire at the end of the applicant's renewal month in 1993 and shall not be renewable thereafter. At the time of renewal in 1992, the clerk shall issue a renewal decal designed by the commission and as approved by the Transportation Cabinet;[~~.~~]

(c) The registration plate under this subsection shall be issued for a period of two (2) years, replacing the regular registration plate, and shall be subject to the registration provisions of KRS Chapter 186, the provisions of this section notwithstanding;

(4) The Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn ***it*** [~~same~~] over to the State Treasurer for the benefit of the state road fund;

(5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071; and

(6) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

The Committee Substitute to **HB 333** is as follows:

HB 333, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.240 is amended to read as follows:

(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and [~~in so doing it shall~~]:

(a) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260.[~~, provided that~~] The forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county, the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

(b) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and

(c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes ***that*** [~~which~~] shall contain*:*

1. The registration number*;*[~~,~~]

2. The word "Kentucky*;*[~~,~~]" and

3. The name of the county in which the plate is issued*,* or in lieu thereof the words "Official," "Transportation," "Executive," ***or*** "Farm.[~~,~~]" [~~or in the case of~~] Plates for commercial vehicles, ***shall contain the year the license expires and*** [~~such~~] words or information [~~as~~] the Department of Vehicle Regulation may ***prescribe*** by ***administrative*** regulation***, pursuant to KRS Chapter 13A***. [~~provide and the year for which the license is issued if the year is not evidenced as otherwise provided in this chapter; provided, however, no~~] Numerals indicating ***a*** [~~any~~] year shall ***not*** be placed upon any license plate issued ***pursuant to*** [~~under and in accordance with the provisions of~~] KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and [~~of~~] KRS 186.061, relating to the licensing of vehicles owned exclusively by ***a*** [~~any~~] nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon ***the*** [~~such~~] plate [~~if so desired~~].

(2) [~~All~~] License plates issued pursuant to KRS 186.050(1) [~~after January 1, 1988,~~] shall conform to the provisions of subsection (1)(c) of this section except***:***

(a) [~~that~~] The word "Kentucky" shall be centered above the county name in which the plate is issued;

(b) The words "Bluegrass State" shall be centered at the top of the plate above the registration number***;***[~~,~~] and

(c) The name of the county in which the plate is issued shall be centered in the lower portion of the plate below the registration number and shall be printed in letters ***that*** [~~which~~] are the same size as those used to print the word "Kentucky." ***Beginning*** [~~After~~] January 1, ***1993*** [~~1988~~], the Transportation Cabinet ***shall*** [~~may~~] provide for the issuance of reflectorized plates for [~~any or~~] all motor vehicles, and ***shall***[~~, if reflectorized plates are issued, may~~] collect a fee, in addition to the fee set out in KRS 186.050, of fifty cents ($0.50);

(3) (a) Upon initial application or registration renewal in calendar year 1991, persons registering a motor vehicle according to KRS 186.050(1) or (3)(a) shall receive a "bicentennial" license plate, in lieu of the registration plate described in subsection (2) of this section. Applications shall be accompanied by payment of the regular registration fee***;***[~~.~~]

(b) The "bicentennial" license plate shall be designed by the Bicentennial Commission and approved by the Transportation Cabinet and shall be issued for calendar year 1991 and shall expire at the end of the applicant's renewal month in 1993 and shall not be renewable thereafter. At the time of renewal in 1992, the clerk shall issue a renewal decal designed by the commission and as approved by the Transportation Cabinet***;***[~~.~~]

(c) The registration plate under this subsection shall be issued for a period of two (2) years, replacing the regular registration plate, and shall be subject to the registration provisions of KRS Chapter 186, the provisions of this section notwithstanding;

(4) The Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn ***it*** [~~same~~] over to the State Treasurer for the benefit of the state road fund;

(5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071; and

(6) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

HB 492, AN ACT relating to overweight permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) In order to promote economic development and retain jobs within this state, subject to the provisions of KRS 189.222, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting products or materials in divisible or nondivisible loads to or from a facility manufacturing products in this state or a facility used for storage of those products, whose gross weight exceeds the limits prescribed by this chapter. The movement of the products or materials shall be limited to no more than thirty-five (35) miles within the state.

(2) A motor carrier transporting products or materials in divisible or nondivisible loads to or from a facility manufacturing products in this state or a facility used for storage of those products, may apply for an annual overweight permit pursuant to subsection (1) of this section. The permit shall be valid twenty-four (24) hours a day, but shall be limited to movements of products or materials of not more than thirty-five (35) miles within the state. The cost of the annual permit shall be two hundred fifty dollars ($250).

The Committee Substitute to **HB 492** is as follows:

HB 492, AN ACT relating to overweight permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) In order to promote economic development and retain jobs within this state, subject to the provisions of KRS 189.222, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing products in this state or a facility used for storage of those products, whose gross weight exceeds the limits prescribed by this chapter. In no instance shall the gross weight limits issued pursuant to this section exceed one hundred and twenty thousand (120,000) pounds. The movement of the products or materials shall be limited to no more than thirty-five (35) miles within the state.

(2) A motor carrier transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing steel products in this state or a facility used for storage of those products, may apply for an annual overweight permit pursuant to subsection (1) of this section. The permit shall be valid twenty-four (24) hours a day, but shall be limited to movements of steel products or steel materials of not more than thirty-five (35) miles within the state. The cost of the annual permit shall be two hundred fifty dollars ($250).

HB 515, AN ACT relating to commercial driver's licenses and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet shall not terminate the employment of any employee of the Commonwealth of Kentucky for failure to possess a valid commercial driver's license if, in conjunction with his job assignments, the employee does not drive a motor vehicle over twenty six thousand (26,000) pounds.

Section 2. Whereas the federal and state deadlines for obtaining a commercial driver's license is April 1, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 515** is as follows:

HB 515, AN ACT relating to commercial driver's licenses and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall not terminate the services of any employee in a job classification which requires a valid commercial driver's license if:

(a) The employee has never held an operator's license;

(b) The employee is not eligible for a medical waiver to operate a commercial vehicle;

(c) The employee's driving record as of March 31, 1992, precludes the issuance of a commercial driver's license;

(d) The employee's job description does not require a commercial driver's license;

(e) The employee retires by December 31, 1992.

(2) The Transportation Cabinet may terminate the employment of any employee whose job classification requires a commercial driver's license as of April 1, 1992, if the employee holds a valid Kentucky driver's license, but has failed to apply for a commercial driver's license and refuses to make an effort to take the necessary tests to obtain a commercial driver's license.

(3) The Transportation Cabinet shall not require a person to possess a commercial driver's license at the time of employment, but any employee who is required to obtain a commercial driver's license as a

requirement for a job classification shall obtain the license prior to the expiration of the employee's six (6) month probationary period.

Section 2. Whereas the federal and state deadlines for obtaining a commercial driver's license is April 1, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HCR 49, A CONCURRENT RESOLUTION encouraging the Kentucky Department of Highways to consider various alternative financing methods for the development of Kentucky's roads.

WHEREAS, the Task Force to Study Highway Needs held public hearings and discussed various highway needs in the state and the development of a highway corridor system in Kentucky; and

WHEREAS, the Task Force studied various means to finance the development of these roads in the state; and

WHEREAS, nationally, toll roads are considered an integral part of the financing of highways, contributing 5% of the total state generated revenue available for highways; and

WHEREAS, toll road receipts as a source of revenue for Kentucky's Road Fund have steadily declined over the last decade because of the state's policy of removing tolls from highways once construction bonds have been retired; and

WHEREAS, discussions between governmental entities and the Task Force revealed various means by which local governments could participate on highway improvement projects through intergovernmental agreements which utilize criteria to determine levels of participation; and

WHEREAS, the Task Force also discussed the privitization of roads as used in the Dulles Access Road and Route 28 projects; and

WHEREAS, the Task Force concluded that all means of alternative financing should be explored in order to take full advantage of the resources available to develop Kentucky's roads;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Transportation Cabinet should be urged to give full consideration to toll roads as a viable alternative financing decision for Kentucky's roads if they can be supplemented by federal participation.

Section 2. That intergovernmental agreements, where two or more governmental entities jointly participate in bringing the completion of highway projects to fruition, should be encouraged.

Section 3. That privitization as a means to accelerate the completion of projects should be explored and encouraged.

Section 4. That the Transportation Cabinet should make every effort to give priority funding to projects within the corridor system developed by the Task Force when these projects are eligible for federal aid.

Section 5. That a copy of this Resolution be forwarded to the Secretary of the Transportation Cabinet, the State Highway Engineer, and the Governor of the Commonwealth of Kentucky.

Calendar

HB 353, HJR 85, HJR 86, HJR 87, HB 504, HB 506, HB 285, HB 332, HB 349, HB 426, HB 519, HB 592, HB 203, HB 479, HB 550, HJR 90 and **HB 485** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 171 and **HB 375** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute to **HB 455**, by Representative Reinhardt:

Amend printed copy of **HB 455/HCS** as follows:

On page 2, line 14, by adding, after "(4)" the words "***No person covered by the provisions of KRS Chapter 18A shall engage in any political activity on state time.***

(5)".

Floor Amendment No. 1 to **HB 485**, by Representative Long:

Amend printed copy of **HB 485** as follows:

On page 5, lines 5 through 8, delete all brackets and strike throughs

On page 5, line 18, after "Locality" insert "***means the county where the physical work upon public works is performed, exept if the secretary of the Finance and Administration Cabinet determines that there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, then, pursuant to the determination of the secretary, ''locality'' shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work***"

On page 5, lines 18 through 23, delete the underlined language

On page 6, line 25, bracket and strike through "and"

On page 7, line 9, bracket and strike through "." and insert in lieu thereof "***; and***"

On page 7, after line 9, add "***(f) 'Secretary' means the secretary of the Finance and Administration Cabinet.***"

On page 7, line 26, bracket and strike through "commissioner's" and inset in lieu thereof "***secretary's***"

On page 8, line 1, bracket and strike through "the majority of"

On page 8, line 5, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 8, line 7, bracket and strike through";" and insert in lieu thereof "."

On page 8, lines 7 and 8, bracket and strike through "in the event that there is not a majority paid at the same rate, then"

On page 9, after line 13, add

"Section 3. KRS 337.510 is amended to read as follows:

(1) Before advertising for bids or entering into any contract for construction of public works, every public authority shall notify the ***Finance and Administration Cabinet*** [~~department~~] in writing of the specific public work to be constructed, and shall ascertain from the ***Finance and Administration Cabinet*** [~~department~~] the prevailing rates of wages for each classification of laborers, workmen, and mechanics for the class of work called for in the construction of such public works in the locality where the work is to be performed. This schedule of the prevailing rate of wages shall include a statement that it has been determined in accordance with the provisions of KRS 337.505 to 337.550 and shall be attached to and made part of the specifications for the work and shall be printed on the bidding blanks and made a part of every contract for the construction of public works.

(2) The public authority advertising and awarding the contract shall cause to be inserted in the proposal and contract a stipulation to the effect that not less than the prevailing hourly rate of wages as determined by the ***secretary*** [~~commissioner~~] shall be paid to all laborers, workmen, and mechanics performing work under the contract. It shall also require in all the contractor's bonds that the contractor include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract. It shall be the duty of the public authority awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of KRS 337.505 to 337.550 committed in the course of the execution of the contract, and when making payments to the contractor becoming due under the contract, to withhold, and retain therefrom all sums and amounts due and owing as a result of any violation thereof. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding authority, on account of the subcontractor's failure to comply with the terms thereof and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

Section 4. KRS 337.512 is amended to read as follows:

(1) No public official, authorized to contract for or construct public works shall fail, before advertising for bids or undertaking such construction, to ascertain from the ***secretary*** [~~commissioner~~] the prevailing rates of wages as provided in KRS 337.505 to 337.550.

(2) No member of a public authority authorized to contract for or construct public works shall vote for the award of any contract for the construction of such public works, or vote for the disbursement of any funds on account of the construction of such public works, unless such public authority has first ascertained from the ***secretary*** [~~commissioner~~] the prevailing rates of wages of laborers, workmen, and mechanics for the classes of work called for by such public works in the locality where the work is to be performed and the determination of prevailing wages has been made a part of the proposal specifications and contract for such public works."

On page 9, line 14, delete the first "3" and insert in lieu thereof "5"

On page 9, line 15, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 9, line 19, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 2, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 5, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 11, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 14, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 18, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 10, line 22, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 11, line 6, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 11, line 24, bracket and strike through "department" and insert in lieu thereof "***Finance and Administration Cabinet***"

On page 12, line 2, bracket and strike through "commissioner" and insert in lieu thereof "***secretary***"

On page 12, after line 5, add

"Section 6. KRS 337.522 is amend to read as follows:

(1) The ***secretary*** [~~commissioner~~] or his authorized representative shall conduct a public hearing for the purpose of making initial determinations, or current revisions thereof, of a prevailing wage schedule for the construction of public works pertaining to a locality. The ***secretary*** [~~commissioner~~] shall within ninety (90) days of the receipt of the transcript of a hearing publish his wage determination. Such a hearing shall be conducted in the locality after notice has been given as provided in subsection (3) of this section.

(2) A public authority or any interested person may request and shall be granted an additional hearing solely for the purpose of having considered a review of the ***secretary's*** [~~commissioner's~~] determination of the

prevailing wage schedule for the construction of public works in the locality; after notice has been given as provided in subsection (3) of this section, such hearing shall be conducted in the locality by a prevailing wage review board consisting of one (1) member representing employers in the construction industry, one (1) member representing labor in the construction industry, and one (1) member appointed by the public authority requesting the hearing. The member appointed by the public authority shall reside in the locality wherein the public works are to be constructed. The members of the board representing employers in the construction industry and labor in the construction industry shall be appointed for periods of not more than four (4) years by the Governor from a list of prospective members recommended by bona fide associations representing the construction industry and bona fide labor organizations representing workers employed in the construction industry, and such members shall serve on the board for all hearings during their tenure. Prevailing wage review boards shall have the authority to revise prevailing wage schedules for the construction of public works; however, such revisions shall be governed by the same criteria and regulations governing wage determinations of the ***secretary*** [~~commissioner~~]. A revision of a prevailing wage schedule for the construction of public works shall require a vote of a majority of the members. The members of a prevailing wage review board shall receive their actual necessary expenses incurred in carrying out their duties and such expenses shall be paid out of the general fund of the Commonwealth of Kentucky.

(3) Notice of hearings as required in subsections (1) and (2) of this section shall be given by advertising one (1) time in the newspaper having the largest circulation in the locality, and such advertisement shall be run not less than ten (10) nor more than twenty (20) days prior to the date of the hearing. The advertisement shall set forth all pertinent information of the hearing regarding the time, place, and purpose of the hearing.

(4) The prevailing wage review boards shall be attached to the ***Finance and Administration*** [~~Labor~~] Cabinet for administrative purposes.

Section 7. KRS 337.524 is amended to read as follows:

If a review of the ***secretary's*** [~~commissioner's~~] determination is requested pursuant to subsection (2) of KRS 337.522, the wage rates to be used by the public authority in a contract for the construction of public works advertised during the pendency of the proceedings provided in subsection (2) of KRS 337.522, or on appeal pursuant to KRS 337.525, shall be the latest rate determined by the ***secretary*** [~~commissioner~~] and which is being reviewed. The public authority shall place in its advertisement, bid documents and contracts, a statement to the effect that the prevailing wage rates contained therein are presently being reviewed and subject to change by appropriate reviewing authorities, and if said rates are modified or altered, the contractors shall be responsible for the payment of the wage rates finally determined. Should any rates be increased from that determined by the ***secretary*** [~~commissioner~~], the contractor may recover from the public authority any additional sums of money which he may be required to pay as a result of said wage modification or alteration. Should any rates be decreased from that determined by the ***secretary*** [~~commissioner~~], the public authority shall be barred from any recovery of the difference previously earned by or paid to employees.

Section 8. KRS 337.525 is amended to read as follows:

(1) Any person or party claiming to be aggrieved by any final determination of prevailing wages by the prevailing wage review board may appeal to the Franklin Circuit Court. The appeal shall state fully the grounds upon which an appeal is sought and assign all errors relied upon. A copy of the appeal and summons shall be served upon the ***Finance and Administration Cabinet*** [~~department of workplace standards~~] and the members of the prevailing wage review board and within thirty (30) days after such service, or within such further time as the court may allow, the ***cabinet*** [~~department~~] on behalf of the prevailing wage review board shall submit to the court a certified copy of all matters considered by the prevailing wage review board from which it made its final wage determination.

(2) No new or additional evidence may be introduced in the Franklin Circuit Court except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling or award. The court shall otherwise hear the appeal upon the record as certified by the ***Finance and Administration Cabinet*** [~~department of workplace standards~~] and shall dispose of same in summary manner. The court shall not substitute its judgment for that of the prevailing wage review board, the court's review being limited to determining whether or not:

(a) The prevailing wage review board acted without or in excess of its powers;

(b) The prevailing wage review board's final wage determination was procured by fraud;

(c) The determination is not in conformity with the provisions of this chapter;

(d) The determination is clearly erroneous on the basis of the information contained in the record; or

(e) The final wage determination is arbitrary or capricious.

(3) The Franklin Circuit Court thereafter shall enter an order affirming or setting aside the prevailing wage review board's wage determination. The court may also remand the case to the prevailing wage review board for further proceedings.

(4) An appeal may be taken to the Court of Appeals from any decision of the Franklin Circuit Court under this section.

Section 9. KRS 337.530 is amended to read as follows:

(1) Where a prevailing rate of wages has been determined and prescribed, the contract executed between a public authority and the successful bidder or contractor shall contain a provision requiring the successful bidder and all of his subcontractors to pay not less than the rate of wages so established. The successful bidder or contractor and all subcontractors shall strictly comply with these provisions of the contract.

(2) All contractors and subcontractors required by KRS 337.505 to 337.550 and by contracts with any public authority to pay not less than the prevailing rate of wages, shall pay such wages in legal tender without any deductions. These provisions shall not apply where the employer and employee enter into an agreement in writing at the beginning of or during any term of employment covering deductions for food, sleeping accommodations or any similar item if this agreement is submitted by the employer to the ***Finance and Administration Cabinet*** [~~department~~] and is approved by the ***cabinet*** [~~department~~] as fair and reasonable. All contractors and subcontractors affected by the terms of KRS 337.505 to 337.550 shall keep full and accurate payroll records covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages. Such records shall indicate the hours worked each day by each employee in each classification of work and the amount paid each employee for his work in each classification. They shall be open to the inspection and transcript of the ***secretary*** [~~commissioner~~] or his authorized representative at any reasonable time, and shall be in compliance with all regulations issued by the ***secretary*** [~~commissioner~~]. These payroll records shall not be destroyed or removed from this state for one (1) year following the completion of the improvement in connection with which they are made.

(3) Each contractor and subcontractor subject to the provisions of KRS 337.505 to 337.550 shall post and keep posted in a conspicuous place or places at the site of the construction work a copy or copies of prevailing rates of wages and working hours as prescribed in the contract with the public authority, showing the rates of wages prescribed and the working hours for each class of laborers, workmen, and mechanics employed by him in the work of constructing the public works provided for in the contract with the public authority.

(4) Every employer shall permit the ***secretary*** [~~commissioner~~] or his authorized agents to question any of his employees at the site of the public work and during work hours in respect to the wages paid, hours worked and duties of such employee or other employees."

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bills have been posted for passage in the Regular Orders of the Day for March 2, 1992: **HB 171**, **HB 375**

The Committee on Rules reported that **HB 455**, **SB 96**, **SB 111**, **HB 67**, **HB 91**, **HB 374**, **HB 381**, **HB 420**, **HB 578**, **HB 285**, **HB 349**, **HB 506**, **HB 550** and **HB 592** have been posted for passage in the Orders of the Day for March 2, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 426**, **HB 519**

Orders of the Day

HB 299, with Committee Substitute and Floor Amenmdent attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Substitute to **HB 299**. Agreed.

Representative Overstreet moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 299**. Agreed.

Representative Overstreet moved that **HB 299**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See February 27, 1992 roll call on **HB 299** - Appendix.)

HB 299, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 299**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

HB 6, **HB 27**, **HB 29**, **HB 205**, **HB 239** and **HB 194** were delivered to the Senate and signed by the President. Delivered to the Governor on February 27, 1992 at 2:30 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 568**, by Representative Sheehan:

Amend printed copy of **HB 568** as follows:

On page 1, line 18, by inserting after "***including***" the words "***engineering works and systems which involve***";

On page 4, line 11, by deleting the word "or" and inserting a coma "," after the word "***principals***";

On page 4, line 11, by inserting after "***officers***" the words "***, or a designated employee***";

On page 4, line 12, by inserting after "***the***" the words "***engineering work***" and delete the word "***practice***";

On page 4, line 26, by deleting the words "***a resident***" and inserting in lieu thereof the word "***an***";

On page 5, line 2, by inserting after the words "***charge of***" the words "***the engineering work for***";

On page 5, line 2, by deleting the words "***A listing of each registered***";

On page 5, by deleting lines 3 and 4 in their entirely;

On page 5, line 2, by inserting after the period "." the following.

"***A professional engineer who renders occasional, part-time, or consulting engineering services to or for a firm required to file with the board pursuant to this section shall not be designated as the person in charge for the professional activity of the firm.***";

On page 5, line 9, by deleting the word "***cause***" and inserting in lieu thereof the words "***violation of the code of professional practice and conduct***";

On page 5, line 15, after "***names***" the words "***or architectural firms offering engineering services incidental to their practice***"

On page 5, line 16, by deleting after the period "." the word "***A***";

On page 5, by deleting lines 17 through 20, in their entirety; and

On page 6, line 13, by deleting the word "***its***" and inserting in lieu thereof, the word "***it***"

Floor Amendment No. 1 to **HB 592**, by Representative Rapier:

Amend printed copy of **HB 592** as follows:

On page 1, lines 1 through 20, to delete the same and to insert thereof:

"Section 1. KRS 7.410 is amended to read as follows:

(1) It is the intent of the General Assembly to provide an efficient system of common schools which shall be operated without waste, duplication, mismanagement, and political influence. The system of schools shall have the goal of providing all students with at least the seven (7) capacities referred to in KRS 158.645.

(2) (a) An Office of Education Accountability is hereby created and shall be under the direction of the Legislative Research Commission.

(b) The Office of Education Accountability shall be administered by a deputy director appointed by the Legislative Research Commission upon recommendation of the director of the Legislative Research Commission. The deputy director shall have the qualifications set by the Commission. The salary of the deputy director shall be set by the Commission. The Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. The deputy director shall be subject to the direction of and report to the director of the Legislative Research Commission.

(c) The Office of Education Accountability shall have the following duties and responsibilities:

1. Monitor the education system and implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including actions taken by the State Board for Elementary and Secondary Education, the Education Professional Standards Board, the chief state school officer, the Department of Education, local school districts, and vocational and higher education as affected by the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476.

2. Establish a Division of School Finance which shall conduct an ongoing review of the finance system. The review shall include an analysis of the level of equity achieved by the funding system and whether adequate funds are available to all school districts; a review of the weights of various education program components, which are to be developed by the Department of Education no later than October 1, 1991. The division shall develop recommendations for the base per pupil funding for the support education excellence in Kentucky program and a statewide salary schedule. It shall conduct studies of other finance issues identified as needing further study, including a review of the transportation formula required in KRS 157.360. The division shall submit an annual report of its activities, findings, and recommendations to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education no later than October 1 each year.

3. Verify the accuracy of reports of school, district, and state performance by conducting, contracting for, or requesting periodic program and fiscal audits as necessary. The Office of Education Accountability may request an audit from the State Committee for School District Audits as established in KRS 156.265.

4. Investigate allegations of wrongdoing of any person or agency, including, but not limited to, waste, duplication, mismanagement, political influence, and illegal activity at the state, regional, or school district level which have not been resolved or satisfactorily explained by the local superintendent, local board of education, the chief state school officer, or the State Board for Elementary and Secondary Education, and make recommendations for action to the Legislative Research Commission.

5. Conduct studies and analyze available data on the efficiency of the system of schools and whether progress is being made toward attaining the goal of providing students with the seven (7) capacities as required by KRS 158.645.

6. Make periodic reports to the Legislative Research Commission as directed by the Commission.

7. Prepare an annual report on the implementation of the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, including recommendations for improvement which shall be submitted to the Governor, the Legislative Research Commission, and the State Board for Elementary and Secondary Education.

(d) The Office of Education Accountability shall have access to all public records and information on oath as provided in KRS 7.110. The office shall also have access to otherwise confidential records, meetings, and hearings regarding local school district personnel matters. However, the office shall not disclose any information contained in or derived from the records, meetings, and hearings that would enable the discovery of the specific identification of any individual who is the focus or subject of the personnel matter.

(e) In compliance with KRS 48.800, 48.950, and 48.955, the Finance and Administration Cabinet and the Governor's Office for Policy and Management shall provide to the Office of Education Accountability access to all information and records, other than preliminary work papers, relating to allotment of funds, whether by usual allotment or by other means, to the Department of Education, local school districts, and to other recipients of funds for educational purposes.

(f) Any state agency receiving a complaint or information which if accurate may identify a violation of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall notify the office of the complaint or information.

(g) The Office of Education Accountability may contract for services as approved by the Legislative Research Commission pursuant to KRS 7.090(7).

(3) The provisions of KRS 61.878 or any other statute, including Acts of the 1992 Regular Session of the General Assembly to the contrary notwithstanding, the testimony of investigators, work products, and records of the Office of Education Accountability relating to duties and responsibilities under subsection (2) of this section shall be privileged and confidential until authorized, released, or otherwise made public by the Office of Education Accountability and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power.

Section 2. Section 1(3) of this Act shall be deemed retroactive to July 13, 1990, and shall apply to subpoenas or court orders issued since that date on any matter covered by KRS 7.410.

Section 3. Whereas subpoenas and court orders which call into question the privileged nature of matters under investigation by the Office of Education Accountaility may have been issued prior to the passage of this Act, or may be issued prior to July 15, 1992, and whereas compliance with such subpoenas and court orders will threaten and/or harm the operations of the Office of Education Accountability as described in Section 1(2) of this Act, and whereas unimpeded operations of the Office of Education Accountability are critical to the successful implementation of the Kentucky Education Reform Act and the General Assembly's duty to provide for efficient common schools pursuant to Section 183 of the Kentucky Constitution, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

and on pages 2 to 5, lines 1 to 26, to delete the same;

and on page 6, lines 1 to 4 to delete the same.

Orders of the Day (Continued)

HB 153, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Substitute to **HB 153**. Agreed.

Representative Overstreet moved that **HB 153**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See February 27, 1992 roll call on **HB 153** - Appendix.)

HB 153, by way of Committee Substitute, was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 153**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 47, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 47**. Agreed.

Representative Gray moved the adoption of Floor Amenmdent No. 2 to the Committee Substitute to **HB 47**.

On the roll call the vote was yeas 45—Adkins, Ark, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Burch, Butler, Callahan, L. Clark, P. Clark, Curd, Cyrus, Deskins, Donnermeyer, Gray, Gregory, Hatcher, Kerr, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Noe, Northup, Rapier, Ravenscraft, Richards, Ridley, Riner, Scorsone, Sheehan, B. R. Smith, Stokes, Stumbo, Ward, Wayne, Worthington, Yates. Nays 39—Allen, Altman, Arnold, Ballard, Bryant, Collins, Crupper, Farley, Farrow, Ford, Gee, Geveden, Hancock, J. Harper, K. Harper, Hourigan, Jensen, Johnson, Jones, Keith, Lear, Lile, Little, Long, Mullinix, Napier, Noland, Nunn, Reinhardt, Riggs, Sanders, T. Smith, Strong, Toby, Todd, Turner, Walker, Williams, Zimmerman.

Floor Amendment No. 2 to the Committee Substitute to **HB 47** was adopted.

Representative Gray moved the adoption of Floor Amenmdent No. 1 to the Committee Substitute to **HB 47**. Rejected.

Representative Gray moved that **HB 47**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 73, Nays 19. (See February 27, 1992 roll call on **HB 47** - Appendix.)

HB 47, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 47**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 386** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See February 27, 1992 roll call on **HB 386** - Appendix.)

HB 386 was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 386** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89, with Committee Substitutes, Title Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute No. 2 to **HB 89**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 89**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 89**. Agreed.

Representative Lear moved that **HB 89**, by way of Committee Substitute No. 2 as amended, be passed.

Representative Mullinix moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 89**.

On the roll call the vote was yeas 54—Ackerson, Adkins, Altman, Bentley, Bowling, Bronger, Bryant, L. Clark, Collins, Deskins, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Jensen, Keith, LeMaster, Lile, Little, Mack, Maggard, Mason, Moberly, Morris, Napier, Noe, Noland, Northup, Nunn, Overstreet, Ravenscraft, Reinhardt, Richards, Sander, B. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Williams, Worthington, Zimmerman. Nays 38—Ark, Arnold, Ballard, Blandford, Bruce, Burch, Butler, Callahan, Castleman, J. Clarke, Coleman, Crupper, Curd, Cyrus, Donnermeyer, Gray, Johnson, Jones, Kerr, Lear, Lewis, Long, Lyne, McElroy, Nelson, Palumbo, Pritchett, Rapier, Richardson, Ridley, Riggs, Riner, Scorsone, Sheehan, R. Smith, Ward, Wayne, Yates.

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 89** was adopted.

On the roll call on the passage of **HB 89**, by way of Committee Substitute No. 2 as amended, the vote was: Yeas 71, Nays 27. (See February 27, 1992 roll call on **HB 89** - Appendix.)

HB 89, by way of Committee Substitute No. 2 as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 89**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 504**, by Representative Sanders:

Amend printed copy of **HB 504/HCS** as follows:

On page 3, line 24, by inserting after "***facility***" and before "***unless***" the following:

"***, if conditions at the jail threaten immediate and substantial danger to the life or safety of the prisoners,***".

Floor Amendment No. 1 to the Committee Substitute to **HB 565**, by Representative Geveden:

Amend printed copy of **HB 565/HCS** as follows:

On page 1, line 19, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 2, line 1, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 2, line 26, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 3, line 3, to delete "***child***" and to insert in lieu thereof "***fetus***"; and

on page 3, lines 15 and 16, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 5, line 2, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 5, line 5, to delete "***unborn child's***" and to insert in lieu thereof "***fetus'***"; and

on page 5, line 6, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 5, lines 9 and 10, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 6, line 4, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"; and

on page 6, line 5, to delete "***unborn child***" and to insert in lieu thereof "***fetus***"

Floor Amendment No. 2 to the Committee Substitute to **HB 565**, by Representative Geveden:

Amend printed copy of **HB 565/HCS** as follows:

On page 4, lines 11 through 26, to delete the same and to insert in lieu thereof "***materials designed to inform the woman of social services available to her, adoption agencies, the physical characteristics of a developing fetus, the risks of carrying a child to term, and the risks of abortion.***"and

on page 5, lines 1 to 16 to delete the same.

Floor Amendment No. 1 to the House Committee Substitute to **SB 211**, by Representative Richards:

Amend printed copy of **SB 211/HCS** as follows:

On page 13, line 26,

After "***employer***" by inserting "***or on their own***"

Orders of the Day (Continued)

HB 437 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 437** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 27, 1992 roll call on **HB 437** - Appendix.)

HB 437 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 437** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 472, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Substitute to **HB 472**. Agreed.

Representative Deskins moved that **HB 472**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 27, 1992 roll call on **HB 472** - Appendix.)

HB 472, by way of Committee Substitute, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 472**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258, with Senate Amendment and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 258** is as follows:

Amend printed copy of **HB 258/GA** as follows:

On page 5, line 26, after the period insert "***However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.***"

On page 10, line 11, after the period insert "***Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.***"

On page 13, after line 5, insert "***(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.***"

On page 19, bracket and strike through lines 7 through 11 in their entirety and on line 12 bracket and strike through "item of equipment by the Commonwealth of Kentucky" and insert in lieu thereof "***No later than thirty (30) days after a project has been accepted by the Commonwealth of Kentucky and the contracts encumbered against that project have been closed***"

On page 26, line 16 delete "8" and insert in lieu thereof "9"

On page 26, lines 17 and 18 delete "engage a certified public account or a firm of certified public accountants to conduct" and insert in lieu thereof ", pursuant to KRS 45.149, provide for"

The Senate Floor Amendment No. 2 to **HB 258** is as follows:

Amend printed copy of **HB 258/GA** as follows:

On page 10, line 23, delete "subsection" and insert in lieu thereof "***subsections***"

On page 10, line 23, after "(12)" insert "***and (13)***"

Representative Long moved that the House concur in Senate Amendment No. 1 to **HB 258**. Agreed.

Representative Long moved that the House concur in Senate Amendment No. 2 to **HB 258**. Agreed.

Representative Long moved that **HB 258**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See February 27, 1992 roll call on **HB 258** - Appendix.)

HB 258, as amended by the Senate, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 258**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Freibert moved that the rules be suspended to introduce and act upon a Resolution and to introduce guests. Agreed. **HR 141**, by Representative Freibert: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Airman Brent A. McCreight, USN, Eminence, who was killed in Operation Desert Shield; CAPT Reg C. Underwood, USMC, Lexington; CAPT James K. Thorp, USMC, Louisville; CPL Kevin E. Wright, USA, Louisville; SPC Donald R. Meyers, USAR, Paducah; all of whom were killed in Operation Desert Storm; and SSG Ricky L. Bunch; USA, Corbin, who was killed after the cease fire.

Representative Freibert moved the adoption of the following **HR 141**:

HR 141, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Airman Brent A. McCreight, USN, Eminence, who was killed in Operation Desert Shield; CAPT Reg C. Underwood, USMC; Lexington; CAPT James K. Thorp, USMC, Louisville; CPL Kevin E. Wright, USA, Louisville; SPC Donald R. Meyers, USAR, Paducah; all of whom were killed in Operation Desert Storm; and SSG Ricky L. Bunch; USA, Corbin, who was killed after the cease fire.

WHEREAS, it is with heavy hearts and deep sadness that we reflect upon the tragic deaths of these Kentuckians who died in the Persian Gulf War; and

WHEREAS, these brave and patriotic military personnel died in the struggle to obtain peace and justice in the Persian Gulf; and

WHEREAS, all who knew and admired these Kentucky military personnel grieve over their loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the tragic deaths of these Kentucky military personnel and extends to their families and friends its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of these brave and patriotic Kentuckians.

Section 3. That the Clerk of the House of Representatives is directed to transmit three copies of this Resolution to each of the following: Danny McCreight, Spring Hill, Estates, Eminence, Kentucky 40019; Patricia Underwood, 3175 Burnham Court, Lexington, Kentucky 40503; William Thorp, 5429 Sir Barton Drive, Valley Station, Kentucky 40272, Ramona L. Wright, 7037 Winona Avenue, St. Louis, Missouri 63109; Tracie Meyers, 6805 Davis Road, Paducah, Kentucky 42002; Edward Bunch, 915 South Botton Avenue, Corbin, Kentucky 40701.

HR 141 was adopted by voice vote.

Representative Freibert moved that a call of the roll be taken to show co-sponsors of **HR 141**.

On the roll call the vote was yeas 100—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Burch moved that the rules be suspended to act upon a Resolution and to introduce guests. Agreed.

Representative Burch moved the adoption of the following **HR 136**:

HR 136, A RESOLUTION adjourning in honor of Dr. Donald Ingwerson, Jefferson County School Superintendent.

WHEREAS, Dr. Donald Ingwerson, superintendent of Jefferson County public schools, was named National Superintendent of the Year at the annual convention of the American Association of School Administrators in San Diego on February 21, 1992; and

WHEREAS, Dr. Ingwerson described the honor as an award for Louisville and recognition on the part of the nation that many of the things going on in Louisville are good; and

WHEREAS, at the awards banquet Dr. Ingwerson told the audience he felt as though he had won the Kentucky Derby and that he considered the honor the highlight of his career; and

WHEREAS, Dr. Donald Ingwerson has been head of Kentucky's largest school district for eleven years and has been responsible for instituting many reforms; and

WHEREAS, Dr. Ingwerson's personal philosophy of education is that every child can learn and therefore, failure to learn is unacceptable;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby recognize the achievements of Dr. Donald Ingwerson that have culminated in the honor of being named Superintendent of the Year; and recognizes the support provided by the Jefferson County School Board.

Section 2. That the House of Representatives does hereby commend to all Kentuckians, the example set by Dr. Donald Ingwerson and adjourns this day in his honor.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Donald Ingwerson, Jefferson County School Board, Box 34020, Louisville, Kentucky 40232-4020.

HR 136 was adopted by voice vote.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HR 136**.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Cyrus, Donnermeyer, Farley, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, Heleringer, Hourigan, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Mason, McElroy, Morris, Mullinix, Nelson, Noe, Noland, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Adkins moved that the rules be suspended to introduce and act upon a Resolution and to grant floor privileges to guests. Agreed.

HR 142, by Representatives Adkins and Cyrus: A RESOLUTION honoring Jack McFadden, country music producer.

Representative Adkins moved the adoption of the following **HR 142**:

HR 142, A RESOLUTION honoring Jack McFadden, country music producer.

WHEREAS, Jack McFadden is president of the McFadden Artist Corporation in Nashville, Tennessee, the country music capital of the world; and

WHEREAS, Jack McFadden was the recipient of the 1991 Manager of the Year award presented by the National Association of Talent Directors (NATD); and

WHEREAS, Jack McFadden has touched many lives during his thirty year career in the entertainment business, to name a few: Merle Haggard, Lorrie Morgan, Keith Whitley, Buck Owens, and his latest rising star, Billy Ray Cyrus; and

WHEREAS, Jack McFadden embodies the emotion and intent of Nietzsche's maxim, "without music, life would be a mistake";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body congratulates Jack McFadden for his uncompromising defense of the integrity of the music industry.

Section 2. That this honorable body is proud to enact legislation prohibiting the practice of music piracy.

Section 3. That when the House of Representatives adjourns this day, Thursday, February 27, 1992, it does so in honor of Jack McFadden.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Jack McFadden, McFadden Artist Corporation, 818 Eighteenth Avenue, South, Nashville, Tennessee 37203.

HR 142 was adopted by voice vote.

Representative Adkins moved that a call of the roll be taken to show co-sponsors of **HR 142**.

On the roll call the vote was yeas 86—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Mason, McElroy, Moberly, Morris, Napier, Nelson, Noe, Noland, Northup, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Lyne moved that the rules be suspended to allow floor privileges to L. Foster: Agreed.

Representative Ravenscraft moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 138, by Representative Ravenscraft: A RESOLUTION honoring the Mountain Rural Telephone Cooperative of West Liberty, Kentucky.

Representative Ravenscraft moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION honoring the Mountain Rural Telephone Cooperative of West Liberty, Kentucky.

WHEREAS, the Mountain Rural Telephone Cooperative was among three southern businesses to be honored as the first-ever recipients of the 1991 Governor's Cup Awards; and

WHEREAS, North Carolina Governor James G. Martin presented the awards at the Southern Growth Policies Board's annual meeting held October 23-25 in Chapel Hill, North Carolina; and

WHEREAS, the Mountain Rural Telephone Cooperative was honored with the 1991 Governor's Cup Award for awarding disadvantaged students substantial scholarships, hiring two hundred fifty disadvantaged youths during the summer, and for lending funds for infrastructure improvement and site preparation; and

WHEREAS, the Mountain Rural Telephone Cooperative's progress in employee and community involvement is a shining example of what can be achieved by those dedicated to progress;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives salutes the Mountain Rural Telephone Cooperative for its many fine accomplishments.

Section 2. That a copy of this Resolution be transmitted to the Mountain Rural Telephone Cooperative, P.O. Box 399, West Liberty, Kentucky 41472.

HR 138 was adopted by voice vote.

Representative Geveden moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION adjourning in loving memory of Callie Rollins Pollock.

With deepest respect, we pay homage and tribute to Callie Rollins Pollock.

WHEREAS, Callie Rollins Pollock, native of Ballard County, crossed these earthly bounds on February 14, 1992 at age one hundred; and

WHEREAS, Callie Rollins Pollock knew deep in her soul that it was appropriate that God called her home on Valentine's Day; and

WHEREAS, Callie Rollins Pollock attended the First Baptist Church in Wickliffe, Kentucky for fifty-four years without missing a Sunday and was honored on national television by Willard Scott on her 100th birthday; and

WHEREAS, Callie Rollins Pollock, was never too busy to tell a funny story or sing a song, had a contagious zest for life, love, fun, and tenderness and continuously gave gifts of her homemade handiwork to her friends; and

WHEREAS, Callie Rollins Pollock was the loving grandmother of Suzanne Moss Allen, grandmother-in-law of Bill Allen, and great grandmother of Bradley and Cory Allen; and

WHEREAS, the passing of Callie Rollins Pollock leaves a void that will never be filled, and she is mourned by all who knew her;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its most profound sense of sorrow upon the passing of Callie Rollins Pollock and does extend to her family its heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Callie Rollins Pollock.

Section 3. That the Clerk of the House is directed to transmit five copies of this Resolution to Mrs. Suzanne Allen, Wickliffe, Kentucky 42087.

HR 127 was adopted by voice vote.

Representative Gray moved the adoption of the following Legislative Citation No. 36. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends SARAH GARNETT for your tireless efforts in serving the city of Louisville. The time and energy you have devoted to your community is noteworthy. Your actions demonstrate leadership and humanitarian qualities that serve as role models for our youth.

This prestigious body joins Representative Leonard Gray in recognizing you for your dedication and accomplishments. We extend to you our very best wishes. (Sponsored by Representative Gray)

Representative Sheehan moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 139, by Representative Sheehan: A RESOLUTION recognizing National School Breakfast Week, March 2 - 6, 1992, celebrated in Kentucky schools.

Representative Sheehan moved the adoption of the following **HR 139**:

HR 139, A RESOLUTION recognizing National School Breakfast Week, March 2-6, 1992, celebrated in Kentucky schools.

WHEREAS, the school breakfast program has served our nation over 24 years; and

WHEREAS, there is evidence that concentrating more calories early in the day results in better weight control since the body uses the calories more efficiently over the course of the day; and

WHEREAS, a daily breakfast increases educational achievement, decreases classroom disruptions and discipline problems, and improves school attendance; and

WHEREAS, the most recent U.S. Department of Agriculture study of the child nutrition programs revealed that many more students would eat a nutritious morning meal if one were provided in their school; and

WHEREAS, recent federal legislation changes have made the breakfast program more financially feasible for schools; and

WHEREAS, the school breakfast program is dedicated to the health and well-being of children throughout our Commonwealth and nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes the importance of nutritional breakfasts in public schools.

Section 2. That this honorable body encourages all citizens of the Commonwealth of Kentucky to become aware and concerned about their children's and their own nutritional habits in order to achieve a more healthful citizenry for today and the future.

Section 3. That when the House of Representatives adjourns this date, it does so in observance of National School Breakfast Week.

HR 139 was adopted by voice vote.

Representative Strong moved the adoption of the following Legislative Citation No. 37. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates KATIE BUCHANAN, MICHELLE COX, TERESA BARKER, JENNIFER BARKER, KELLY HOLLIDAY, TARA MARTIN, CHRISTY SALE, HEATHER SIMS, LORI LUTTRELL, ANDREA FELTNER, STARLA WILLIAMS, members of the Hazard High School Basketball Cheerleading Squad. Your high standard of performance in the Boy's Division Cheerleading Competition of the Kentucky All "A" Classic tournament allowed you to claim the championship title. This achievement resulted from hard work, dedication and a positive team effort.

This prestigious body joins Representative William R. Strong in congratulating the Hazard High School Cheerleaders on being named State All "A" Champs. We extend best wishes for future victories. (Sponsored by Representative Strong)

Representative Mack moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 140, by Representatives Mack, Hatcher, Gray and Mason: A RESOLUTION commending the House of Representatives' official pages during the 1992 General Assembly.

Representative Mack moved the adoption of the following **HR 140**:

HR 140, A RESOLUTION commending the House of Representatives official pages during the 1992 General Assembly.

WHEREAS, the official House pages have worked diligently in contributing to the smooth operation of the 1992 General Assembly; and

WHEREAS, the official House pages have unselfishly given their invaluable assistance to the members of the House of Representatives; and

WHEREAS, the 1992 General Assembly has benefitted from the tireless efforts of the House pages;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body is proud to recognize the many contributions the official House pages have made during the 1992 General Assembly.

Section 2. That this august body congratulates the official House pages for their many contributions during the 1992 General Assembly and wishes them success in all future endeavors.

Section 3. That the Clerk of the House of Representatives is directed to distribute copies of this Resolution to Steven Rockhold, Lori Armstrong, Chris Disponette, Kris Hockensmith, Matt Hoehner, Cherie' Mitchell, Becky Becknell and Darick Morton.

HR 140 was adopted by voice vote.

Representative Stumbo moved that **HB 362** and **HB 219** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that **HB 387** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 705, by Representatives Callahan, Donnermeyer and Kerr: AN ACT relating to income taxes.

HB 706, by Representative Deskins: AN ACT relating to workers' compensation.

HB 707, by Representative Clarke: AN ACT relating to tax penalties.

HB 708, by Representative Ridley: AN ACT relating to motor vehicles.

HB 709, by Representative Heleringer: AN ACT relating to specialized treatment program for sexual offenders who are mentally retarded.

HB 710, by Representative Sheehan: AN ACT relating to police radios.

HB 711, by Representative Heleringer: AN ACT relating to unemployment insurance.

HB 712, by Representative Heleringer: AN ACT relating to liens.

HB 713, by Representatives Farrow and Jones: AN ACT relating to library employees.

HB 714, by Representatives Farrow and Crupper: AN ACT relating to entrepreneurship education, and making an appropriation therefor.

HB 715, by Representative Burch: AN ACT relating to prohibiting the use of corporal physical discipline or punishment on children in out-of-home placement.

HB 716, by Representatives Casebier and Lile: AN ACT relating to hazardous waste.

HB 717, by Representative Cyrus: AN ACT relating to amygdalin (laetrile).

HB 718, by Representative Little: AN ACT relating to underground coal mine safety.

HB 719, by Representative Ravenscraft: AN ACT relating to higher education and declaring an emergency.

HB 720, by Representatives Crupper, Bronger and Heleringer: AN ACT relating to workers' compensation.

HB 721, by Representatives Scorsone, Little, Mason and Rapier: AN ACT relating to teachers.

HB 722, by Representatives Ravenscraft and Little: AN ACT relating to weight distance tax and declaring an emergency.

HB 723, by Representative Ark: AN ACT relating to higher education assistance.

HB 724, by Representative Ark: AN ACT relating to crimes and punishments.

HB 725, by Representatives Donnermeyer, Callahan, Wayne, L. Clark, Bronger, Yates, Sheehan, Butler, Rapier, Ward, P. Clark, Burch, Brown, Hatcher, K. Harper, Reinhardt, Heleringer, Freibert, Walker, Williams and Gray: AN ACT proposing amending Section 226 of the Constitution of Kentucky relating to lotteries and gift enterprises.

HB 726, by Representative Worthington: AN ACT relating to enterprise zones.

HB 727, by Representatives Zimmerman, Richardson, Turner and Stumbo: AN ACT relating to retirement.

HB 728, by Representatives Moberly and Long: AN ACT relating to regulating landfill rates.

HB 729, by Representatives Moberly, Barrows, Hancock, Farrow, Richardson and Coleman: AN ACT relating to water resources.

HB 730, by Representative Bowling: AN ACT relating to the sale of business opportunities.

HB 731, by Representatives Adkins and Bentley: AN ACT relating to special license plates.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HCR 64, HB 361, HB 656**

Health and Welfare: **SJR 67, HB 473, HB 672**

Transportation: **HB 549, HB 572, HB 584, HB 617, HB 620, HB 628**

State Government: **SB 219**

Banking and Insurance: **HB 576**

Agriculture and Small Business: **HB 666**

Business Organizations and Professions: **SB 119, SB 117**

Judiciary: **HB 115, HB 242, HB 256, HB 413, HB 441, HB 445, HB 481, HB 484, HB 538, HB 558, HB 601, HB 609, HB 636, HB 646, HB 651**

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 424**, with Committee Substitute attached thereto, **HB 554**, with Committee Substitute and Title Amendment attached thereto, and **SB 211**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 424, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) ***(a) In a proceeding for dissolution of marriage, legal separation, or child support, either party may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(f). The court*** [~~Upon motion by either party, accompanied by an affidavit setting forth the number of children of the marriage and income of the parties, with notice to the opposing party, the court, without a hearing, within fourteen (14) days from the filing of said motion,~~] shall order an amount of temporary child support based upon the child support guidelines as provided by law ***and the ordered temporary child support shall be retroactive to the date of the filing of the motion unless otherwise***

ordered by the court [~~; the order effective immediately; either party may move for a hearing before the court to contest or modify the order pursuant to the rules of the local court~~].

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection and, pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) On the basis of the showing made and in conformity with KRS 403.200 [~~and the child support guidelines set forth in KRS 403.212~~], the court may issue a temporary injunction or restraining order and an order for temporary maintenance [~~or support~~] in amounts and on terms just and proper in the circumstances.

(5) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 2. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) ***The court shall allocate reasonable and necessary child-care costs incurred due to employment, job search, or education leading to employment between the parents in proportion to their adjusted gross income, in addition to the amount ordered under the child support guidelines*** [~~The court, in its discretion, may order all or any part of child-care costs to be paid by either or both of the parents of the child, and if ordered, shall be in addition to the amount ordered under the child support guidelines~~].

(7) The court ***shall*** [~~may, in its discretion,~~] order the cost of [~~reasonable~~] health ***care*** insurance coverage of the child to be paid by either or both parents of the child[~~. However, in all child support orders being established, modified, or enforced by the Cabinet for Human Resources, the court shall provide for health care coverage for dependent children~~] if reasonable ***and available*** under all the circumstances.[~~;~~] If health care ***insurance*** coverage is not ***reasonable and*** [~~presently~~] available ***at the time the request for the coverage is made***, the ***court*** order shall provide for health care ***insurance*** coverage at ***the*** [~~such~~] time [~~as~~] it becomes ***reasonable and*** [~~reasonably~~] available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. Extraordinary medical expenses means uninsured expenses in excess of two hundred dollars ($200) per child per year. Extraordinary medical expenses shall include, but shall not be limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

Section 3. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including, but not limited to, Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community.

(e) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(f) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child; and

2. ***The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court.***

(3) The amount of pre-existing orders of ***current*** child support ***for prior born children*** to the extent payment is actually made under ***the*** [~~such~~] orders.

(4) If a parent is legally responsible for and is actually providing support for other prior born children who are not the subject of this particular proceeding, a deduction for the support shall be allowed to the extent payment is made. If the prior born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior born children.

(5)[~~(3)~~] The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(6)[~~(4)~~] The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. ***The minimum amount of child support shall be sixty dollars ($60) per month.***

(7)[~~(5)~~] The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(8)[~~(6)~~] The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
$ 100	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,100	1,009	1,522	1,907	2,175	2,342	2,504
10,200	1,014	1,528	1,915	2,184	2,352	2,514
10,300	1,018	1,535	1,924	2,193	2,362	2,525
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758

Section 4. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child ***unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age while still a high school student, the court ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated*** [~~but not~~] by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Human Resources or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years, experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 5. KRS 405.430 is amended to read as follows:

(1) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(2) The cabinet may modify a parent's child support obligation or child care obligation as established by the cabinet on its own or upon a parent's petition, but only upon a finding of the conditions described for judicial modification of a support order.

(3) In establishing a parent's monthly child support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(4) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, or document used in determining child support or child-care obligations.

Section 6. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates subsection (2) of KRS 405.490 shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs, and reasonable attorney's fees.

(3) A person who violates subsection (4) of KRS 405.430 shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

Section 7. KRS 427.045 is amended to read as follows:

The exemptions provided in KRS ***342.180 and*** 427.010 to 427.040 shall not apply for executions, attachments, or garnishments, issued for the collection of maintenance of minor children.

Section 8. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether ***the*** [~~such~~] impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, ***a maker*** [~~an issuer~~] of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The ***maker*** [~~issuer~~] had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. ***A maker*** [~~An issuer~~] makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to ***a maker*** [~~an issuer~~] that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the ***maker*** [~~holder~~] of ***ten*** [~~five~~] dollars ***($10)*** [~~($5)~~], if ***the*** [~~said~~] instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) ***A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.***

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (5) ***or (6)*** of this section is one hundred dollars ($100) or more, in which case it is a Class D felony.

SECTION 9. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In any proceeding in which a court orders child support, the court shall determine which party may claim which child or children as dependents for income tax purposes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 406 IS CREATED TO READ AS FOLLOWS:

As used in KRS 406.011 to 406.180:

(1) "Genetic markers" means separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven (7) of which are normally tested in a paternity proceeding.

(2) "Genetic tests" means blood or tissue typing tests including, but not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, electrofloresis, or deoxyribonucleic acid.

(3) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted by the American Association of Blood Banks.

Section 11. KRS 406.041 is amended to read as follows:

The obligation of the estate of the father for liabilities under this chapter ***shall not be terminated by the death of the father obligated to support the child. If a father obligated to support the child dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances*** [~~is limited to amounts accrued prior to his death and such sums as may be payable for dependence under other laws~~].

Section 12. KRS 406.081 is amended to read as follows:

The court, upon request of a party or on its own motion, shall order the mother, child, and alleged father to submit to ***genetic*** [~~blood~~] tests. If the mother refuses for herself or on behalf of the child to submit to ***the*** [~~such~~] tests, the court may resolve the question of paternity against her unless ***the*** [~~such~~] action is brought by or is being prosecuted by an agency contributing to the support of the child.

Section 13. KRS 406.091 is amended to read as follows:

(1) If a ***genetic*** [~~blood~~] test is required, the court shall direct that inherited characteristics[~~, including but not limited to blood tests,~~] be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) ***Genetic*** [~~Blood~~] test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(3) If the results of ***genetic*** [~~blood~~] tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing.

(4) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(5) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(6) All costs associated with ***genetic*** [~~blood~~] testing shall be paid by the parties in proportions [~~and at times~~] determined by the court.

Section 14. KRS 406.111 is amended to read as follows:

If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question may be submitted upon all the evidence. If the ***court finds that the statistical probability of paternity equals or exceeds ninety-nine percent (99%), as calculated by the experts qualified as examiners of genetic markers, and that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is one hundred (100) to one (1) greater, there is a rebuttable presumption, affecting the burden of proof, of paternity. This presumption shall only be rebutted by a preponderance of the evidence. If the presumption is not rebutted, the court shall enter a summary judgment of paternity, pursuant to Rule 56 of the Rules of Civil Procedure*** [~~experts conclude that the blood tests show the possibility of the alleged father's paternity, admission of this evidence is within the discretion of the court, depending upon the infrequency of the blood type~~].

Section 15. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by administrative regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by administrative regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the Social Security Act, its amendments, and other federal acts and regulations. The secretary shall also promulgate administrative regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for aid to families with dependent children. In no instance shall grants to families with no income be less than the appropriate aid to families with dependent children grant maximum. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(3) ***The secretary shall establish the standard of need for determining eligibility for aid to families with dependent children by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.***

(4) The secretary may by administrative regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by administrative regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(5)[~~(4)~~] The secretary may by administrative regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(6)[~~(5)~~] Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(7)[~~(6)~~] The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(8)[~~(7)~~] No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by administrative regulation standards of suitability for training and employment.

(9)[~~(8)~~] To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(10)[~~(9)~~] To the extent permitted by federal law, any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange" by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam shall not be considered as income for the purpose of determining eligibility or continuing eligibility for public assistance and shall not be subject to a lien or be available for repayment to the Commonwealth for public assistance received by the recipient.

[~~(10) The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, limited to transportation to and from training or educational programs and child care costs necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special needs allowances and the length of time recipients may receive such allowances. Such administrative regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.~~]

Section 16. KRS 205.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means the secretary for human resources or his authorized representative;

(3) "Public assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives or a family containing a combination of these categories except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of title IV of the Social Security Act, its amendments and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent", in addition to biological or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

(a) Is not aged, blind, disabled, incapacitated, or needed in the home:

1. Because of the illness or incapacity of a member of the family; or

2. Because of children in the home under the age of six; or

(b) Volunteers for such determination.[~~;~~]

(14) [~~As used in KRS 205.650 to 205.700, unless the context otherwise requires:~~

~~(a) "Community work experience program" shall mean a program to provide work experience and training for recipients of public assistance who are not otherwise able to obtain employment or who are not actively participating in training or education programs;~~

~~(b) "Designated geographic area" shall mean one (1) county or a portion of one (1) county selected by the secretary as the site of a community work experience program; and~~

~~(c) "Recipient" shall mean a person who currently receives benefits from public assistance;~~

~~(15)~~] Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

Section 17. The following KRS sections are repealed:

205.2001 "Aid to families with dependent children standard of need" defined.

205.650 Development of programs.

205.660 Participation as a condition of receiving public assistance — Exceptions.

205.670 Specifications of types of programs — Hours — Transportation.

205.680 Conditions for types of employment.

205.690 Reports to General Assembly.

205.700 Participation by food stamp recipients.

The Committee Substitute to **HB 424** is as follows:

HB 424, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) ***(a) In a proceeding for dissolution of marriage, legal separation, or child support, either party may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(f). The court*** [~~Upon motion by either party, accompanied by an affidavit setting forth the number of children of the marriage and income of the parties, with notice to the opposing~~

~~party, the court, without a hearing, within fourteen (14) days from the filing of said motion,~~] shall order an amount of temporary child support based upon the child support guidelines as provided by law ***and the ordered temporary child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court*** [~~, the order effective immediately; either party may move for a hearing before the court to contest or modify the order pursuant to the rules of the local court~~].

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection and, pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) On the basis of the showing made and in conformity with KRS 403.200 [~~and the child support guidelines set forth in KRS 403.212~~], the court may issue a temporary injunction or restraining order and an order for temporary maintenance [~~or support~~] in amounts and on terms just and proper in the circumstances.

(5) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 2. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount.

However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) ***The court shall allocate reasonable and necessary child-care costs incurred due to employment, job search made in good faith, or education leading to employment between the parents in proportion to their adjusted gross income, in addition to the amount ordered under the child support guidelines*** [~~The court, in its discretion, may order all or any part of child-care costs to be paid by either or both of the parents of the child, and if ordered, shall be in addition to the amount ordered under the child support guidelines~~].

(7) The court ***shall*** [~~may, in its discretion,~~] order the cost of [~~reasonable~~] health ***care*** insurance coverage of the child to be paid by either or both parents of the child[~~. However, in all child support orders being established, modified, or enforced by the Cabinet for Human Resources, the court shall provide for health care coverage for dependent children~~] if reasonable ***and available*** under all the circumstances.[~~;~~] If health care ***insurance*** coverage is not ***reasonable and*** [~~presently~~] available ***at the time the request for the coverage is made***, the ***court*** order shall provide for health care ***insurance*** coverage at ***the*** [~~such~~] time [~~as~~] it becomes ***reasonable and*** [~~reasonably~~] available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. Extraordinary medical expenses means uninsured expenses in excess of two hundred dollars ($200) per child per year. Extraordinary medical expenses shall include, but shall not be limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

Section 3. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including, but not limited to, Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI) and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community.

(e) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(f) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child; and

2. ***The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court.***

(3) The amount of pre-existing orders of ***current*** child support ***for prior born children*** to the extent payment is actually made under ***the*** [~~such~~] orders.

(4) If a parent is legally responsible for and is actually providing support for other prior born children who are not the subject of this particular proceeding, a deduction for the support shall be allowed to the extent payment is made. If the prior born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior born children.

(5)[~~(3)~~] The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(6)[~~(4)~~] The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. ***The minimum amount of child support shall be sixty dollars ($60) per month.***

(7)[~~(5)~~] The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(8)[~~(6)~~] The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
$ 100	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
			CHILDREN			
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,100	1,009	1,522	1,907	2,175	2,342	2,504
10,200	1,014	1,528	1,915	2,184	2,352	2,514
10,300	1,018	1,535	1,924	2,193	2,362	2,525
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO	THREE	FOUR	FIVE	SIX OR MORE
		CHILDREN				
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758

Section 4. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child ***unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated*** [~~but not~~] by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Human Resources or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years, experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 5. KRS 405.430 is amended to read as follows:

(1) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving

elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(2) The cabinet may modify a parent's child support obligation or child care obligation as established by the cabinet on its own or upon a parent's petition, but only upon a finding of the conditions described for judicial modification of a support order.

(3) In establishing a parent's monthly child support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(4) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, or document used in determining child support or child-care obligations.

Section 6. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates subsection (2) of KRS 405.490 shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs, and reasonable attorney's fees.

(3) A person who violates subsection (4) of KRS 405.430 shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

Section 7. KRS 427.045 is amended to read as follows:

The exemptions provided in KRS ***342.180 and*** 427.010 to 427.040 shall not apply for executions, attachments, or garnishments, issued for the collection of maintenance of minor children.

Section 8. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether ***the*** [~~such~~] impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, ***a maker*** [~~an issuer~~] of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The ***maker*** [~~issuer~~] had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. ***A maker*** [~~An issuer~~] makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to ***a maker*** [~~an issuer~~] that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the ***maker*** [~~holder~~] of ***ten*** [~~five~~] dollars ***($10)*** [~~($5)~~], if ***the*** [~~said~~] instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) ***A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.***

(7) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (5) ***or (6)*** of this section is one hundred dollars ($100) or more, in which case it is a Class D felony.

SECTION 9. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In any proceeding in which a court orders child support, the court shall determine which party may claim which child or children as dependents for income tax purposes.

SECTION 10. A NEW SECTION OF KRS CHAPTER 406 IS CREATED TO READ AS FOLLOWS:

As used in KRS 406.011 to 406.180:

(1) "Genetic markers" means separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven (7) of which are normally tested in a paternity proceeding.

(2) "Genetic tests" means blood or tissue typing tests including, but not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, serum proteins, electrofloresis, or deoxyribonucleic acid.

(3) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted by the American Association of Blood Banks.

Section 11. KRS 406.041 is amended to read as follows:

The obligation of the estate of the father for liabilities under this chapter ***shall not be terminated by the death of the father obligated to support the child. If a father obligated to support the child dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances*** [~~is limited to amounts accrued prior to his death and such sums as may be payable for dependence under other laws~~].

Section 12. KRS 406.081 is amended to read as follows:

The court, upon request of a party or on its own motion, shall order the mother, child, and alleged father to submit to ***genetic*** [~~blood~~] tests. If the mother refuses for herself or on behalf of the child to submit to ***the*** [~~such~~] tests, the court may resolve the question of paternity against her unless ***the*** [~~such~~] action is brought by or is being prosecuted by an agency contributing to the support of the child.

Section 13. KRS 406.091 is amended to read as follows:

(1) If a ***genetic*** [~~blood~~] test is required, the court shall direct that inherited characteristics[~~, including but not limited to blood tests,~~] be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) ***Genetic*** [~~Blood~~] test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(3) If the results of ***genetic*** [~~blood~~] tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing.

(4) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(5) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(6) All costs associated with ***genetic*** [~~blood~~] testing shall be paid by the parties in proportions [~~and at times~~] determined by the court.

Section 14. KRS 406.111 is amended to read as follows:

If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question may be submitted upon all the evidence. If the ***court finds that the statistical probability of paternity equals or exceeds ninety-nine percent (99%), as calculated by the experts qualified as examiners of genetic markers, and that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is one hundred (100) to one (1) greater, there is a rebuttable presumption, affecting the burden of proof, of paternity. This presumption shall only be rebutted by a preponderance of the evidence. If the presumption is not rebutted, the court may enter a summary judgment of paternity, pursuant to Rule 56 of the Rules of Civil Procedure*** [~~experts conclude that the blood tests show the possibility of the alleged father's paternity, admission of this evidence is within the discretion of the court, depending upon the infrequency of the blood type~~].

HB 554, AN ACT relating to psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

(1) "Cabinet" means the Cabinet for Human Resources.

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community.

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents.

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of eight (8) beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.500;

(b) Department for Social Services;

(c) Local school districts;

(d) Psychiatric hospitals; and

(e) Any other agency, organization, or facility deemed appropriate by the Commission on Health Economics Control.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital; however, a psychiatric residential treatment facility may be located on grounds shared by another licensed facility.

(5) If a psychiatric residential treatment facility is licensed prior to the effective date of this Act and pursuant to KRS 216B.020, the facility shall be exempt from subsections (1) and (4) of this section, if the facility is in compliance with the administrative regulations in effect on the date of the licensure.

The Committee Substitute to **HB 554** is as follows:

HB 554, AN ACT relating to psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

(1) "Cabinet" means the Cabinet for Human Resources.

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community.

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents.

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of eight (8) beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

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(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.500;

(b) Department for Social Services;

(c) Local school districts;

(d) Psychiatric hospitals; and

(e) Any other agency, organization, or facility deemed appropriate by the Commission on Health Economics Control.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital; however, a psychiatric residential treatment facility may be located on grounds shared by another licensed facility. If a psychiatric residential treatment facility is located on grounds shared by another licensed facility, the following shall apply:

(a) The residents of both facilities may have joint activities and interactions;

(b) The administrative and direct-care staff may serve both facilities; and

(c) The services or components of the physical plant related to housekeeping, maintenance, dietary, or recreational activities may serve both facilities.

(5) If a psychiatric residential treatment facility is licensed prior to the effective date of this Act and pursuant to KRS 216B.020, the facility shall be exempt from subsections (1) and (4) of this section, if the facility is in compliance with the administrative regulations in effect on the date of the licensure.

Section 3. Whereas the current administrative regulations governing the operation and services of psychiatric residential treatment facilities do not adequately represent the intent of the General Assembly to prohibit the location of this type of facility in or on the grounds of a psychiatric hospital, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **HB 554** is as follows:

Amend printed copy of **HB 554** as follows:

By amending the title to read as follows:

"AN ACT relating to psychiatric residential treatment facilities and declaring an emergency."

SB 211, AN ACT relating to child day care.

WHEREAS, high quality child care and early education are vital to the development of young children and are essential in the development of an adequate work force to meet the employment needs of Kentucky's economy; and

WHEREAS, Kentucky has a primary responsibility for the protection of its children which requires the assurance that basic health and safety standards are in place for all children in and out of home child-care settings; and

WHEREAS, the Federal Child Care and Development Block Grant Act of 1990 was enacted to increase the availability, affordability, and quality of child-day-care services in accordance with allocations established in the Act; and

WHEREAS, the objectives of the block grant legislation were to provide financial assistance for child care to low income families, increase the quality and supply of child care, provide a broad range of child-care options to parents, strengthen the role of the family, and improve coordination of child-care programs and early childhood development programs for seamless services; and

WHEREAS, Kentucky will receive over $13 million in new federal funds from this block grant for fiscal year 1991-92; and

WHEREAS, the purpose of this legislation is to establish priorities for the expenditure of these new federal funds and all child-care funds administered by the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) All children receiving child-care services in a day-care center licensed pursuant to KRS 199.896, a family child-care home certified pursuant to Section 2 of this Act, or from a provider or program receiving public funds shall have the following rights:

(a) The right to be free from physical or mental abuse;

(b) The right not to be subjected to abusive language or abusive punishment; and

(c) The right to be in the care of adults who shall meet their health, safety, and developmental needs.

(2) Parents, custodians, or guardians of children specified in subsection (1) of this section shall have the following rights:

(a) The right to have access to their children at all times the child is in care and access to the provider caring for their children during normal hours of provider operation and whenever the children are in the care of the provider;

(b) The right to be provided with information about child-care regulatory standards, if applicable; where to direct questions about regulatory standards; and how to file a complaint;

(c) The right to file a complaint against a child-care provider without any retribution against the parent, custodian, guardian, or child; and

(d) The right to review and discuss with the provider any state reports and deficiencies revealed by such reports.

(3) The child-care provider who is licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act shall post these rights in a prominent place and shall provide a copy of these rights to the parent, custodian, or guardian of the child at the time of the child's enrollment in the program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

a. Basic health, safety, and sanitation;

b. Recognizing and reporting child abuse; and

c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home. The cabinet may promulgate administrative regulations to impose minimum staff to child ratios and other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;

2. Information about available child-care training; and

3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 3. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least ***seven (7)*** [~~four (4)~~] children ***who are*** not ***the children, grandchildren, nieces, nephews, or children in legal custody of the operator*** [~~related to the operator of the child-care facility by blood, marriage or adoption~~]. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

Section 4. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the cabinet. The balance of ***the*** [~~said~~] special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child-care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day-care centers and homes by the Cabinet for Human Resources shall be unannounced.

(9) All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(10) All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(11) The cabinet shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (9) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (9) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The Child Care Policy Council is hereby created within the Cabinet for Human Resources. The council shall:

(a) Promote coordination and communication among state agencies responsible for child care and early childhood education services;

(b) Serve as an advisor for state agencies responsible for child-care programs;

(c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child care and other early childhood programs;

(d) Review and make recommendations on administrative regulations relating to child-care programs and services;

(e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and

(f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.

(2) The council shall be composed of fifteen (15) citizen members appointed by the Governor. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified; they shall be chosen to broadly represent public interest groups concerned with child-care services, professionals involved in the delivery of child-care services, nonprofit child-care providers, for-profit child-care providers, family child-care providers, employers, labor, resource and referral programs, parents, and the general public. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. The secretary for human resources, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council. The

commissioner for social services shall be staff director for, and shall provide staff to, the council. The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.

SECTION 6. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) The Cabinet for Human Resources shall conduct a market-rate survey at least biennially to determine the rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act;

(b) Determine market rates; and

(c) Make public its findings.

(2) By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high quality child care.

(3) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that Area Development District.

SECTION 7. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) To the extent possible with available funds, the Cabinet for Human Resources shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform data base in a format developed by the cabinet of all child-day-care providers licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-day-care services;

(c) Provide timely referrals of available child-day-care providers to families seeking child-day-care services;

(d) Recruit child-day-care providers;

(e) Coordinate, with the cabinet, training for child-day-care providers and provide technical assistance to employers, current and potential child-day-care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-day-care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community; and

(h) Provide written educational materials to parents and child-day-care providers.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) All child-day-care funds administered by the cabinet, including Titles XX and IV-A of the Social Security Act, shall be administered by the cabinet's Department for Social Services to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child care services can make application.

(3) The cabinet shall, subject to the extent funds are available, establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. Where possible, dedicated child care surveyors shall have expertise or experience in child care or early childhood education.

SECTION 9. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall prepare the following reports to the General Assembly on child care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

Section 10. Initial appointments to the council created in Section 5 of this Act shall be as follows:

(1) Five (5) members shall be appointed to serve a term of two (2) years;

(2) Five (5) members shall be appointed to serve a term of three (3) years; and

(3) Five (5) members shall be appointed to serve a term of four (4) years.

The House Committee Substitute to **SB 211** is as follows:

SB 211, AN ACT relating to child day care.

WHEREAS, high quality child care and early education are vital to the development of young children and are essential in the development of an adequate work force to meet the employment needs of Kentucky's economy; and

WHEREAS, Kentucky has a primary responsibility for the protection of its children which requires the assurance that basic health and safety standards are in place for all children in and out of home child-care settings; and

WHEREAS, the Federal Child Care and Development Block Grant Act of 1990 was enacted to increase the availability, affordability, and quality of child-day-care services in accordance with allocations established in the Act; and

WHEREAS, the objectives of the block grant legislation were to provide financial assistance for child care to low income families, increase the quality and supply of child care, provide a broad range of child-care options to parents, strengthen the role of the family, and improve coordination of child-care programs and early childhood development programs for seamless services; and

WHEREAS, Kentucky will receive over $13 million in new federal funds from this block grant for fiscal year 1991-92; and

WHEREAS, the purpose of this legislation is to establish priorities for the expenditure of these new federal funds and all child-care funds administered by the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) All children receiving child-care services in a day-care center licensed pursuant to KRS 199.896, a family child-care home certified pursuant to Section 2 of this Act, or from a provider or program receiving public funds shall have the following rights:

(a) The right to be free from physical or mental abuse;

(b) The right not to be subjected to abusive language or abusive punishment; and

(c) The right to be in the care of adults who shall meet their health, safety, and developmental needs.

(2) Parents, custodians, or guardians of children specified in subsection (1) of this section shall have the following rights:

(a) The right to have access to their children at all times the child is in care and access to the provider caring for their children during normal hours of provider operation and whenever the children are in the care of the provider;

(b) The right to be provided with information about child-care regulatory standards, if applicable; where to direct questions about regulatory standards; and how to file a complaint;

(c) The right to file a complaint against a child-care provider without any retribution against the parent, custodian, guardian, or child; and

(d) The right to review and discuss with the provider any state reports and deficiencies revealed by such reports.

(3) The child-care provider who is licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act shall post these rights in a prominent place and shall provide a copy of these rights to the parent, custodian, or guardian of the child at the time of the child's enrollment in the program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

a. Basic health, safety, and sanitation;

b. Recognizing and reporting child abuse; and

c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home. The cabinet shall promulgate administrative regulations to impose minimum staff to child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;

2. Information about available child-care training; and

3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 3. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least ***seven (7)*** [~~four (4)~~] children ***who are*** not ***the children, grandchildren, nieces, nephews, or children in legal custody of the operator*** [~~related to the operator of the child-care facility by blood, marriage or adoption~~]. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

Section 4. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the cabinet. The balance of ***the*** [~~said~~] special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child-care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day-care centers [~~and homes~~] by the Cabinet for Human Resources shall be unannounced.

(9) All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(10) All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(11) The cabinet shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (9) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (9) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The Child Care Policy Council is hereby created within the Cabinet for Human Resources. The council shall:

(a) Promote coordination and communication among state agencies responsible for child care and early childhood education services;

(b) Serve as an advisor for state agencies responsible for child-care programs;

(c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child care and other early childhood programs;

(d) Review and make recommendations on administrative regulations relating to child-care programs and services;

(e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and

(f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.

(2) The council shall be composed of seventeen (17) citizen members appointed by the Governor and shall include one (1) member of the House of Representatives appointed by the Speaker of the House and one (1) member of the Senate appointed by the Senate President Pro Tempore. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified; they shall be chosen to broadly represent public interest groups concerned with child-care services, professionals involved in the delivery of child-care services, nonprofit child-care providers, for-profit child-care providers, family child-care providers, employers, labor, resource and referral programs, parents, and the general public. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. The secretary for human resources, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council. The commissioner for social services shall be staff director for, and shall provide staff to, the council. The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.

SECTION 6. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) The Cabinet for Human Resources shall conduct a market-rate survey at least biennially to determine the rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act;

(b) Determine market rates; and

(c) Make public its findings.

(2) By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high quality child care.

(3) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that Area Development District.

SECTION 7. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) To the extent possible with available funds, the Cabinet for Human Resources shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform data base in a format developed by the cabinet of all child-day-care providers licensed pursuant to KRS 199.896 or certified pursuant to Section 2 of this Act in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-day-care services;

(c) Provide timely referrals of available child-day-care providers to families seeking child-day-care services;

(d) Recruit child-day-care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

(e) Coordinate, with the cabinet, training for child-day-care providers and provide technical assistance to employers, current and potential child-day-care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-day-care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

(h) Provide written educational materials to parents and child-day-care providers; and

(i) Not operate a child day care center on behalf of an employer unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to the effective date of this Act.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ A FOLLOWS:

(1) All child-day-care funds administered by the cabinet, including Titles XX and IV-A of the Social Security Act, shall be administered by the cabinet's Department for Social Services to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child care services can make application.

(3) The cabinet shall, subject to the extent funds are available, establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. Where possible, dedicated child care surveyors shall have expertise or experience in child care or early childhood education.

SECTION 9. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall prepare the following reports to the General Assembly on child care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

Section 10. Initial appointments to the council created in Section 5 of this Act shall include the current members of the child care advisory committee appointed pursuant to Administrative Order **HR 91-41** and shall be as follows:

(1) Five (5) members shall be appointed to serve a term of two (2) years;

(2) Five (5) members shall be appointed to serve a term of three (3) years; and

(3) Seven (7) members shall be appointed to serve a term of four (4) years.

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponosrs to Bills and Resolutions: **HB 299**, **HB 455**, Representative Riner; **HB 519**, Representative Maggard; **HB 530**, Representative Lile; **HB 583**, Representative Bruce; **HB 567**, Representative Mason; **HR 136**, Representatives Casebier, Lile.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **HB 299**. Agreed.

Representative Long moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Long moved that he be recorded as voting "yea" on **HB 299**. Agreed.

Representative P. Clark moved that the rules be suspended to withdraw a Bill. Agreed.

Representative P. Clark moved that **HB 311** be withdrawn. Agreed.

Announcements

The following meeting was announced:

Western Kentucky Caucus, Room 127, February 27, 1992, upon adjournment.

The following meeting was cancelled:

Northern Kentucky Caucus, Febraury 27, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 9:00 a.m., Friday, February 28, 1992.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bruce, Bryant, Butler, Callahan, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Donnermeyer, Farley, Farrow, Freibert, Gee, Gedling, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Casebier, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 28, 1992

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father Robert Gerl, St. Catherine College, Springfield.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, R. Smith and Bryant.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of February 27, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 77**, **SB 108**, **SB 121**, **SB 139**, **SB 212**, **SB 213**, **SB 214**, **SB 216**, **HB 31** with Senate Committee Substitute, **HB 66** with Senate Amendments, **HB 164**, **HB 215**, **HB 257**, **HB 316**, **HB 419**. (Time: 9:05 a.m.)

Introduction of Bills and Resolutions

HB 732, by Representatives Stumbo and Cyrus: AN ACT relating to workers' compensation.

HB 733, by Representatives Collins and Bentley: AN ACT relating to school district average daily attendance.

HB 734, by Representative Collins: AN ACT relating to education.

HB 735, by Representative Collins: AN ACT relating to nonteaching activities for teachers.

HB 736, by Representatives Brown, Ark, Little, McElroy, Nelson, Zimmerman, Long, Ford, Northup, Blandford, Yates, Strong, Rapier, Gedling, Sanders, Gregory, Hancock, Ridley, R. Smith, Bentley, Bronger, Donnermeyer, Reinhardt, L. Clark, Jones, Callahan, J. Harper, Butler, Cyrus, Pritchett, B. Smith, Adkins, Ravenscraft, Maggard, Arnold, Mason, Turner, Gray, Hatcher, Crupper, Altman, Curd, P. Clark, Nunn, Ballard, Castleman, Farrow, Hourigan, Ward, Bowling, Todd, Burch, Sheehan, Richards, Jensen, Noland, Stumbo, Overstreet, Coleman and Lewis: AN ACT relating to underground storage tanks.

HB 737, by Representative K. Harper: AN ACT relating to capital projects of the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 704**, **HB 705**, **HB 707**, **HB 722**

Business Organizations and Professions: **HB 703**, **HB 730**

Cities: **HB 702**

Counties and Special Districts: **HB 713**

Economic Development: **HB 726**

Education: **HB 714**, **HB 719**, **HB 721**, **HB 723**, **SB 193**

Elections and Constitutional Amendments: **HB 725**

Health and Welfare: **HB 709**, **HB 715**, **HB 717**

Judiciary: **HB 710, HB 712, HB 724**

Labor and Industry: **HB 706, HB 711, HB 720**

Natural Resources and Environmental Protection: **HB 716, HB 718, HB 728, HB 729**

State Government: **HB 727**

Transportation: **HB 708, HB 731**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Cities: **HB 569**

Counties and Special Districts: **HB 87, HB 102, HB 527, HB 582, HB 615, HB 661, HB 667, HB 674, HB 675, HB 471**

Business Organizations and Professions: **HB 703**

Calendar

HB 101, HB 165, HB 464, HB 535, HB 537, HB 542, HB 561, HB 563, HB 579, HB 589, HB 606, HB 610, HB 624, HCR 118, HJR 121, SB 99, SB 107, HB 230, HB 516, HB 534, SB 55, HB 511, HB 575, HB 593, HB 141, HB 198, HB 216, HB 333, HB 492, HB 515, HCR 49, HB 424, HB 554, SB 211 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 565, SB 66, SB 79, HB 203, HB 479, HJR 90, HB 141, HB 516, HB 534, HB 535, HB 561, HB 563, HB 575, HB 579, HB 606, HB 610, HCR 49, HCR 118, HJR 121, SB 55, SB 211** have been posted for passage in the Orders of the Day for March 3, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 165**

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 504**, by Representative Sanders:

Amend printed copy of **HB 504/HCS** as follows:

On page 3, line 26, by adding after the word "***Corrections***" the following:

"***. A certificate of occupancy shall be issued if there is no immediate and substantial danger to the life or safety of the prisoners***".

Floor Title Amendment to **SB 55**, by Representative P. Clark:

Amend printed copy of **SB 55/GA** as follows:

On page 1, by amending the title to read as follows:

"AN ACT relating to absentee ballots and declaring an emergency."

Floor Amendment No. 3 to the Committee Substitute to **HB 565**, by Representative Nunn:

Amend printed copy of **HB 565/HCS** as follows:

On page 2, line 5, at the beginning of the line to add the following:

"***Unless the requirement if waived in writing by the woman upon whom the abortion is to be performed, no***"; and

on page 2, line 5, to delete "***No***"

Orders of the Day

SB 71 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **SB 71** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See February 28, 1992 roll call on **SB 71** - Appendix.)

SB 71 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **SB 71** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 199**. Agreed.

Representative Gray moved that **HB 199**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See February 28, 1992 roll call on **HB 199** - Appendix.)

HB 199, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 199**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 424**, by Representative Heleringer:

Amend printed copy of **HB 424/HCS** as follows:

On page 2, line 10,

By deleting "***without***" and inserting in lieu thereof "***with***"

And on page 2, line 15,

By deleting "***seven (7)***" and inserting in lieu thereof "***ten (10)***"

And on page 2, line 17,

By deleting "***seven (7)***" and inserting in lieu thereof "***ten (10)***"

Floor Amendment No. 2 to the Committee Substitute to **HB 424**, by Representative Heleringer:

Amend printed copy of **HB 424/HCS** as follows:

On page 23, lines 10-15,

By deleting Section 9 in its entirety and renumbering the remaining sections to conform.

Orders of the Day (Continued)

SJR 7 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **SJR 7** be adopted.

On the roll call the vote was: Yeas 92, Nays 0. (See February 28, 1992 roll call on **SJR 7** - Appendix.)

SJR 7 was adopted.

Representative Worthington moved that the vote by which **SJR 7** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 211 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 211** be passed.

On the roll call the vote was: Yeas 82, Nays 2. (See February 28, 1992 roll call on **HB 211** - Appendix.)

HB 211 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 211** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 434** be passed.

On the roll call the vote was: Yeas 80, Nays 4. (See February 28, 1992 roll call on **HB 434** - Appendix.)

HB 434 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 434** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 303, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 303**. Agreed.

Representative Geveden moved that **HB 303**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 80, Nays 11. (See February 28, 1992 roll call on **HB 303** - Appendix.)

HB 303, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 303**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 258**, **HB 316**, **HB 419**, **HB 164**, **HB 215**, **HB 257** and **HB 183** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 9:55 a.m.)

HB 258, **HB 316**, **HB 419**, **HB 164**, **HB 215**, **HB 257** and **HB 183** were delivered to the Senate and signed by the President. Delivered to the Governor on February 28, 1992 at 10:05 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 464**, by Representative Deskins:

Amend printed copy of **HB 464** as follows:

On page 1, line 3, following "he" to add "***is prohibited from purchasing a handgun in Kentucky by the Federal Gun Control Act of 1968, as amended, and has not been granted relief from disability by the Secretary of the Treasury of the United States, or is a nonresident of Kentucky, and he***"; and

on page 2, between lines 11 and 12, to add the following:

"***(5) Any resident of Kentucky not enumerated in subsection (1) of this section may carry concealed deadly weapons on or about his person at all times within the Commonwealth of Kentucky.***"; and

on page 2, line 12, to delete "*(5)*" and to insert in lieu thereof "*(6)*"; and

on page 2, line 18, to delete "*(6)*" and to insert in lieu thereof "*(7)*".

Orders of the Day (Continued)

HB 568, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 568**. Agreed.

Representative Sheehan moved that **HB 568**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See February 28, 1992 roll call on **HB 568** - Appendix.)

HB 568, as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 568**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 547 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved that **HB 547** be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See February 28, 1992 roll call on **HB 547** - Appendix.)

HB 547 was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 547** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 343 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved that **HB 343** be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See February 28, 1992 roll call on **HB 343** - Appendix.)

HB 343 was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 343** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HCR 78** be adopted.

On the roll call the vote was: Yeas 90, Nays 0. (See February 28, 1992 roll call on **HCR 78** - Appendix.)

HCR 78 was adopted.

Representative Ridley moved that the vote by which **HCR 78** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 62, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 62** is as follows:

Amend printed copy of **HB 62/GA** as follows:

On page 8, line 24, after the period and before the first word "***The***" insert, "***Transient room taxes shall not apply to rooms, lodgings, or accommondations supplied for a continuous period of thirty (30) days or more to the same individual.***"

Representative Gregory moved that the House concur in Senate Floor Amendment No. 1 to **HB 62**. Agreed

Representative Gregory moved that **HB 62**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See February 28, 1992 roll call on **HB 62** - Appendix.)

HB 62, as amended by the Senate, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 62**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 375**, by Representative Williams:

Amend printed copy of **HB 375** as follows:

On page 2, line 19, after "***officer.***" insert the following:

"***In consideration of these appeals the chief state school officer and the State Board for Elementary and Secondary Education shall give preference to the best interest of the individual student.***".

Orders of the Day (Continued)

HB 583 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 583** be passed.

On the roll call the vote was: Yeas 88, Nays 3. (See February 28, 1992 roll call on **HB 583** - Appendix.)

HB 583 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 583** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Kerr moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Kerr moved the adoption of the following **HR 126**:

HR 126, A RESOLUTION honoring members of the Simon Kenton High School Technology Student Association.

WHEREAS, states are making efforts to interest and educate students in the areas of science and mathematics; and

WHEREAS, with the increasing role of technology in society, the need for scientifically-literate citizenry is urgent; and

WHEREAS, this honorable body hails the technological pursuits of Simon Kenton High School's Technology Student Association; and

WHEREAS, two hundred and seventy high school students in our great Commonwealth have roused to this need and are currently enrolled in technology education; and

WHEREAS, one-hundred and ten of those students are also members of the highly motivational Technology Student Association; and

WHEREAS, members of Simon Kenton's Technology Education Department steadfastly participated in the Student Craftsman Fair at Eastern Kentucky University from 1971 to 1988; and

WHEREAS, since 1988, Simon Kenton's Technology Education Department has been vigorously taking part in the Technology Student Association; and

WHEREAS, Simon Kenton's technological minds of the twenty-first century have reigned best, eighteen of the twenty-two times they have competed in the Kentucky Technology Student Association State Championship; and

WHEREAS, currently Simon Kenton's members of the Technology Student Association reign number one team in the Kentucky Technology Student Association State Championship and will seek to protect their reign this April; and

WHEREAS, Simon Kenton's Technology Student Association finances their way to the annual championship through year-round fund raising;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails the members of Simon Kenton's Technology Student Association for their technological pursuits and championship performance.

Section 2. That this honorable body urges these students to further their technological pursuits both educationally and professionally.

Section 3. That the Clerk of the House transmit a copy of this Resolution to Eugene Keith, Simon Kenton High School, 5545 Madison Pike, Independence, Kentucky 41051.

HR 126 was adopted by voice vote.

Representative Stumbo moved that **HB 348** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Stumbo moved that **HB 680** and **HB 681** be reassigned to the Committee on Economic Development. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 738, by Representatives Lewis, Ridley, Johnson, Nunn, Ballard, Jones, Geveden, Nelson, Morris, Sanders, Turner, Gedling, Lyne, Brown, Castleman, Curd and McElroy: AN ACT relating to economic development.

HB 739, by Representatives Kerr, K. Harper, Donnermeyer and Callahan: AN ACT relating to continuing education.

HB 740, by Representative Palumbo: AN ACT relating to mental health services.

HB 741, by Representative Clarke: AN ACT relating to environmental protection.

HB 742, by Representative Curd: AN ACT relating to the school term.

HB 743, by Representative Moberly: AN ACT relating to refillable containers.

HB 744, by Representative Lewis: AN ACT relating to parole.

HB 745, by Representatives Adkins, Bentley and Nelson: AN ACT relating to motor vehicle usage tax.

HB 746, by Representatives Arnold, Hancock and Crupper: AN ACT relating to the use of insurance premium surcharges and declaring an emergency.

HB 747, by Representative Ark: AN ACT relating to check cashing.

HB 748, by Representatives Ford, Maggard, Williams, Napier, McElroy, Mullinix, Deskins, Overstreet, Jensen, J. Harper, Toby, R. Smith, Nelson, Northup, Keith, Walker, Adkins, Arnold, Noland, Brown, Lyne, Jones, Altman, Zimmerman, Johnson, Reinhardt, Little, Scorsone, Worthington, Farley, Bronger, Turner, Todd, Mack, Hatcher, Casebier, Moberly, Gray, Ravenscraft, Lile, Gee, Kerr, Sanders, Gedling, Hourigan, Butler, Coleman, P. Clark, Pritchett, Ward, Ridley, Crupper, Gregory, Mason and Allen: AN ACT relating to motor vehicles.

HB 749, by Representatives LeMaster and Bronger: AN ACT relating to horse racing.

HB 750, by Representative Richards: AN ACT relating to interscholastic athletics and declaring an emergency.

HB 751, by Representatives Jensen and Casebier: AN ACT relating to crimes and punishments.

HB 752, by Representative Brown: AN ACT relating to the environment.

HCR 143, by Representative L. Clark: A CONCURRENT RESOLUTION establishing a commission to study firefighting services in Kentucky.

HJR 144, by Representatives Morris and Bruce: A JOINT RESOLUTION directing the Cabinet for Human Resources to create a pilot program to assist Kentucky's welfare recipients to become self sufficient by developing their own small businesses.

HCR 145, by Representative Farley: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a special task force to study the feasibility of providing four-year higher education opportunities in Ashland, Kentucky.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 512**

Judiciary: **HB 697**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions: **HB 418**, **HJR 68**, Representative Heleringer; **HB 540**, **HB 567**, Representative Keith; **HB 560**, **HB 587**, Representative Donnermeyer; **HB 725**, Representative Jones.

The following member filed a request to have his name withdrawn as co-sponsor to a Bill: **HB 431**, Representative Heleringer.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 434**. Agreed.

Representative Gee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gee moved that he be recorded as voting "nay" on **HB 89**. Agreed.

Representative Gee moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Gee moved that he be recorded as voting "yea" on **HB 437**, **HB 472** and **HB 258**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 434**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 343** and **HB 547**. Agreed.

Representative Johnson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johnson moved that he be recorded as voting "yea" on **HB 434**. Agreed.

Representative Lear moved that the rules be suspended to withdraw **HB 380**. Agreed.

Announcements

The following meeting was announced:

Appropriations and Revenue Subcommittee on Human Resources, Room 129, February 28, 1992, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 2, 1992.

On the roll call the vote was yeas 81—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Gregory, Hancock, J. Harper, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 6—Bronger, Hatcher, Heleringer, LeMaster, Lile, Riggs.

The motion to adjourn was adopted.

MONDAY, MARCH 2, 1992

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of February 28, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 515**, by Representative Collins:

Amend printed copy of **HB 515/HCS** on page 1, line 13, after the word "***description***" and before the word "***does***" insert the following new language: "***, as of April 1, 1992,***".

Floor Amendment No. 1 to **HB 479**, by Representative Scorsone:

Amend printed copy of **HB 479** on page 2, between lines 9 and 10, by adding the following:

"***(c) The minor has obtained the written consent of a physician who is not an employee of or compensated by the provider of an abortion procedure, and who after consultation and examination, determines that notifying the parent or guardian of the minor may lead to physical or emotional abuse of the minor. The physician's consent shall be based on signs of physical, emotional, or sexual abuse; or***";

And on page 2, line 10, to delete "*(c)*" and to delete the brackets and strikethrough of "(d)".

Message from the Governor

Announcing veto of **HB 12**. (Date: March 2, 1992; Time: 10:15 a.m.)

The veto message of **HB 12** is as follows:

Pursuant to the authority vested in me by Section 88 of the Constitution of the Commonwealth of Kentucky, I, Brereton C. Jones, Governor, do hereby veto House Bill 12. I fully support the procedures currently contained in KRS Chapter 12 that require legislative scrutiny of major reorganizations of the executive branch of government. One part of this bill, Section 1, Subsection (2) would extend those procedures to the mundane day-to-day operation of state government, with the result that a department head could not abolish unnecessary positions, transfer employees between positions or change the duties of positions without following the procedures established by KRS 12.028. The intent of the bill, consolidating and making consistent the management responsibilities of the cabinet secretaries, I wholeheartedly support.

s/Brereton C. Jones, Governor
February 28, 1992

s/Evelyn Marston, House Clerk
March 2, 1992

Senate Message

Announcing passage of **SB 78**. (Time: 4:03 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 62** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:04 p.m)

HB 62 was delivered to the Senate and signed by the President. Delivered to the Governor on March 2, 1992 at 4:11 p.m.

Introduction of Bills and Resolutions

HB 753, by Representative L. Clark: AN ACT relating to local option elections.

HB 754, by Representative Farrow: AN ACT relating to group self-insurers.

HB 755, by Representatives Bentley, Mason, Ravenscraft, Collins, Hourigan, Gedling and Lyne: AN ACT relating to schools.

HB 756, by Representative Johnson: AN ACT relating to the election of judges.

HB 757, by Representative K. Harper: AN ACT relating to limitation of actions.

HB 758, by Representative T. Smith: AN ACT relating to state leases.

HB 759, by Representative Cyrus: AN ACT relating to occupational safety and health.

HB 760, by Representative J. Harper: AN ACT relating to legislative ethics.

HB 761, by Representative Rapier: AN ACT relating to refunding bonds.

HB 762, by Representative Ark: AN ACT relating to the Commonwealth venture fund.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HCR 143, HCR 145, HB 743, HB 745, HB 746, HB 748**

Banking and Insurance: **HB 747, SB 139, SB 108, SB 212, SB 213, SB 214, SB 216**

Business Organizations and Professions: **HB 749**

Economic Development: **HB 738**

Education: **HB 733, HB 734, HB 739, HB 742, HB 750, SB 121**

Health and Welfare: **HJR 144, HB 740**

Judiciary: **HB 744, HB 751**

Labor and Industry: **HB 732**

Natural Resources and Environmental Protection: **HB 736, HB 741, HB 752**

State Government: **HB 737**

Transportation: **SB 77**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HJR 124**

Cities: **SB 3**

Business Organizations and Professions: **HB 749**

Education: **HB 326, HB 425, HB 596, HB 633, HB 657, HB 677, HB 698, HR 132, HR 133, HR 134, HR 135**

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported that **HB 65**, **SB 123**, **HB 353**, **HB 333**, **HB 424**, **HB 464**, **HB 492**, **HB 515**, **HB 537**, **HB 624** and **SB 99** have been posted for passage in the Orders of the Day for March 4, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 332**, **HB 101**, **HB 542**, **HB 554**

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 485**, by Representative Nunn:

Amend printed copy of **HB 485** on page 7, line 20, before "For" insert "***(1)***"; and

On page 7, line 25, bracket and strike through "(1)" and insert in lieu thereof: "***(a) Based on a thorough wage survey conducted in every county of a locality, the average basic hourly rate for each classification of laborers, workmen, and mechanics who work in that locality; and***"; and

On page 7, line 25, bracket and strike through "The basic hourly rate paid or being paid"; and

On page 7, line 26, bracket and strike through "subsequent to the" and "commissioner's most recent"; and

On page 8, bracket and strike through lines 1 through 12 in their entirety; and

On page 8, line 13, bracket and strike through "(2)" and insert in lieu thereof "***(b)***"; and

On page 9, after line 13, insert "***(2) Every calendar year, the Interim Joint Committee on Labor and Industry shall determine what prevailing wages have been set in each locality and whether the prevailing wages were set in accordance with subsection (1) of this section. The committee shall forward its determination to the Legislative Research Commission.***"

On page 10, bracket and strike through lines 5 through 8 in their entirety; and

On page 10, line 9, bracket and strike through "employers." and "contracts shall be filed within"; and

On page 10, line 9, delete "***The***"; and

On page 10, line 10, bracket and strike through "ten (10) days after they are signed."; and

On page 10, line 11, bracket and strike through "(3)" and insert in lieu thereof "***(2)***"; and

On page 10, line 17, after the period bracket and strike through "The"; and

On page 10, bracket and strike through lines 18 through 20 in their entirety; and

On page 10, line 21, bracket and strike through "constructed in the localities. In considering"; and

On page 10, line 21, delete "***the***"; and

On page 10, line 22, delete "***,***"; and

On page 10, line 22, bracket and strike through "rates" and "the commissioner shall ascertain, insofar as"; and

On page 10, bracket and strike through lines 23 through 25 in their entirety; and

On page 10, line 26, delete "***,***"; and

On page 10, line 26, bracket and strike through "number of workers employed on each project" and "and the"; and

On page 11, bracket and strike through lines 1 through 4 in their entirety; and

On page 11, line 5, delete "***the***"; and

On page 11, line 5, bracket and strike through "the localities. In considering" and "rates the"; and

On page 11, line 6, delete "***, insofar as practicable,***"; and

On page 11, line 6, bracket and strike through "commissioner shall ascertain" and "the"; and

On page 11, line 7, delete "***the***"; and

On page 11, line 7, bracket and strike through "names and addresses of" and "contractors including"; and

On page 11, bracket and strike through lines 8 and 9 in their entirety; and

On page 11, line 10, delete "***,***"; and

On page 11, line 10, bracket and strike through "employed on each project" and "and the respective wage rates"; and

On page 11, bracket and strike through line 11 in its entirety; and

On page 11, line 12, delete "***these***"; and

On page 11, line 12, bracket and strike through "projects."; and

On page 11, bracket and strike through lines 13 through 17 in their entirety.

On page 11, line 18, bracket and strike through "(4)" and insert in lieu thereof "***(3)***"; and

On page 12, line 2, bracket and strike through "(5)" and insert in lieu thereof "***(4)***".

Floor Amendment No. 2 to **HB 485**, by Representative Ark:

Amend printed copy of **HB 485** by deleting Sections 1 through 3 in their entirety and insert in lieu thereof the following:

"Section 1. KRS 337.010 is amended to read as follow:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of workplace standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employee and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner of workplace standards showing a status of learner, apprentice, handicapped worker, sheltered workshop employee, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of workplace standards. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employees; or

10. Any employee employed by an establishment which is an organized nonprofit camp, religious or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips; and

(e) "U.S.C." means the United States Code.

[~~(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:~~

~~(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) in 1982 and adjusted annually on July 1 thereafter according to the change in the consumer price index released by the United States Department of Labor, Bureau of Labor Statistics;~~

~~(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed~~

~~in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;~~

~~(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and~~

~~2. "Locality" with respect to contracts advertised or awarded by the transportation cabinet of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;~~

~~(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and~~

~~(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work except for buildings constructed as institutions of learning constructed under contract with any public authority. However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.~~

~~(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.~~]

Section 2. KRS 337.990 is amended to read as follows:

The following civil penalities shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7) Any employer who violates any provision of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and

337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

[~~(12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.~~

~~(13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.~~]

(12)[~~(14)~~] A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

(a) Made any complaint to his employer, the commissioner, or any other person; or

(b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

(c) Testified, or is about to testify, in any such proceedings.

Section 3. KRS 99.480 is amended to read as follows:

Before the agency enters into any contracts for work of demolition, grading, clearing or construction of utilities or other facilities or site improvements, it shall satisfy all requirements of the law, applicable to similar contracts of the community, relating to the advertisement and acceptance of bids, execution of bonds, and award of contracts. [~~The agency shall also attach to and make a part of the specifications for a contract for said work, a schedule of prevailing wages, and shall conform to all of the requirements of KRS 337.510 to 337.540, inclusive.~~]

Section 4. The following KRS sections are repealed:

337.505 Definition of 'prevailing wage,' fringe benefits included;

337.510 Public authority's duties as to inclusion of prevailing wage in proposals and contracts;

337.512 Duties of individual officers with respect to prevailing wage law;

337.520 Determination of prevailing wages - Regulations - Filing wage contract;

337.522 Hearings - Publication of determination - Revisions - Prevailing wage review boards attached to labor cabinet for administrative purposes;

337.524 Which rates to apply while review is pending;

337.525 Judicial review;

337.530 Contractor to pay prevailing wages and post rates - Payroll records - On-site inspections;

337.540 Limitation of working laws - Exceptions - Overtime;

337.548 Injunction of violation of prevailing wage law; and

337.550 Department to aid in enforcement - Remedies of laborer."

Orders of the Day

HB 541 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richardson moved that **HB 541** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 2, 1992 roll call on **HB 541** - Appendix.)

HB 541 was passed and the title agreed to.

Representative Richardson moved that the vote by which **HB 541** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 67**. Agreed.

Representative Donnermeyer moved that **HB 67**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 2, 1992 roll call on **HB 67** - Appendix.)

HB 67, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 67**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 479**, by Representative Stokes:

Amend printed copy of **HB 479** on page 2, between lines 9 and 10, by adding the following:

"***(c) The minor has obtained the written consent of a licensed physician, psychologist, or clinical social worker who is not an employee of or compensated by the provider of an abortion procedure, and who after consultation and examination, determines that notifying the parent or guardian of the minor may lead to physical or emotional abuse of the minor. The physician's, psychologist's, or clinical social worker's consent shall be based on signs of physical, emotional, or sexual abuse; or***";

And on page 2, line 10, to delete "*(c)*" and to delete the brackets and strikethrough of "(d)".

Floor Amendment No. 3 to **HB 479**, by Representative Ward:

Amend printed copy of **HB 479** on page 2, between lines 9 and 10, by adding the following:

"***(c) The minor has obtained counseling from a member of the clergy residing in Kentucky who has graduated from a seminary which has been accredited by the Association of Theological Schools and has obtained a sworn written statement making specific factual findings and professional conclusions supporting the decision of the member of the clergy that the minor is mature and well-informed enough to make the abortion decision on her own. If, after counseling, the counselor concludes that the minor cannot make a decision on her own the minor may petition the circuit or district court for permission as provided in subsection (d) of this section. Counseling is not a prerequisite to a court petition but may be utilized in lieu of or in addition to the court petition process.***"

And on page 2, line 10, by deleting "***(c)***" and by deleting the brackets preceding and following "(d)" and by deleting the strikethroughs therein.

Floor Amendment No. 4 to **HB 479**, by Representative Ward:

Amend printed copy of **HB 479** on page 2, between lines 9 and 10, to add the following:

"***(c) The minor has obtained counseling from a psychiatrist licensed to practice in Kentucky, or a psychologist licensed to practice in Kentucky, and who are not in the employ of or compensated by the provider of the abortion procedure and the minor has obtained a sworn written statement making specific factual findings and professional conclusions supporting the decision of the psychiatrist or psychologist that the minor is mature and well-informed enough to make the abortion decision on her own. If, after counseling, the counselor concludes that the minor cannot make a decision on her own she may petition the Circuit or District Court for permission as provided in subsection (d). Counseling is not a prerequisite to a court petition but may be utilized in lieu of or in addition to the court petition process.***; and

on page 2, line 10, to delete "***(c)***"; and

to delete the brackets and strike through of "(d)"

Orders of the Day (Continued)

HB 171, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of Committee Amendment No. 1 to **HB 171**. Agreed.

Representative Brown moved that **HB 171**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 2, 1992 roll call on **HB 171** - Appendix.)

HB 171, as amended, was passed and the title agreed to.

Representative Brown moved that the vote by which **HB 171**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 375, with Committee Amendment, Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **HB 375**. Agreed.

Representative Noe moved that **HB 375**, as amended, be passed.

Representative Williams moved the adoption of Floor Amendment No. 1 to **HB 375**. Agreed.

On the roll call on the passage of **HB 375**, as amended, the vote was: Yeas 92, Nays 2. (See March 2, 1992 roll call on **HB 375** - Appendix.)

HB 375, as amended, was passed.

Representative Noe moved the adoption of the Committee Title Amendment to **HB 375**. Agreed; and the title was agreed to.

Representative Noe moved that the vote by which **HB 375**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 91, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved the adoption of the Committee Substitute to **HB 91**. Agreed.

Representative J. Harper moved that **HB 91**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 2, 1992 roll call on **HB 91** - Appendix.)

HB 91, by way of Committee Substitute, was passed.

Representative J. Harper moved the adoption of the Committee Title Amendment to **HB 91**. Agreed; and the title was agreed to.

Representative J. Harper moved that the vote by which **HB 91**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SJR 7** and **SB 71** have been examined and found correctly enrolled. Said Bill and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:27 p.m)

Floor Amendments (Continued)

Floor Title Amendment to **HB 516**, by Representative Richards:

Amend printed copy of **HB 516** by amending the title to read as follows: "AN ACT relating to nonpartisan primaries."

Floor Amendment No. 1 to **HB 516**, by Representative Richards:

Amend printed copy of **HB 516** on page 1, line 4, by deleting the word "***judicial***"; and

On page 1, line 5, by deleting the word "***or***"; and

On page 1, between lines 12 and 13, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

The provisions of any other provision to the contrary notwithstanding, in a nonpartisan primary for a judicial office, a candidate who receives fifty-one percent (51%) or more of the votes cast for that office in the primary shall appear as the only candidate on the ballot for that office at the regular election. Unless a write-in candidate receives more votes, the candidate whose name appears on the ballot at the regular election shall be certified as the winner."; and

On page 1, line 13, by deleting "2" and inserting in lieu thereof "3"; and

On page 1, line 13, by deleting "Section 1".

Floor Amendment No. 5 to **HB 479**, by Representative Burch:

Amend printed copy of **HB 479** on page 5, line 18, by adding the following new subsection:

"***(11) If the parent or legal guardian of a minor refuses to give informed written consent for the minor's abortion and there has been a judicial finding of refusal of consent, and the minor has a child or children as a result of that pregnancy, the duty imposed by law of supporting the child or children shall extend to the minor and jointly and severally to the refusing parent or legal guardian and the natural father until the minor reaches the age of eighteen (18) years or is emancipated by marriage.***"

Floor Amendment No. 2 to **SB 79**, by Representative Ward:

Amend printed copy of **SB 79** on page 3, after line 24 by adding:

"Section 2. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of ***fifteen (15)*** [~~eleven (11)~~] members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four-year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of ***eight (8)*** [~~six (6)~~] members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between meetings, and the designation of alternates for members with full voting authority."

Floor Amendment No. 1 to the Committee Substitute to **HB 575**, by Representative R. Smith:

Amend printed copy of **HB 575/HCS** on page 1, line 4, by deleting "***promulgate***" and substituting therefor "***adopt***"; and

On page 1, line 7, delete "***for cabinet action***"; and

On page 1, line 12, by deleting "***promulgated***" and substituting therefor "***proposed for adoption and filed with the Legislative Research Commission***"; and

On page 1, line 14, by deleting "***promulgated***" and substituting therefor "***proposed for adoption and filed with the Legislative Research Commission***"; and

On page 1, line 19, by deleting "***properly promulgated***" and substituting therefor "***proposed for adoption***"; and

On page 2, line 5, insert after "***permit.***" the following: "***However, nothing in this section shall require the cabinet to issue a permit which would violate KRS Chapter 224 or the administrative regulations adopted pursuant thereto.***"

Floor Amendment No. 3 to the Committee Substitute to **HB 424**, by Representative Burch:

Amend printed copy of **HB 424/HCS** on page 27, line 4, by adding the following new Section:

"Section 15. KRS 405.020 is amended to read as follows:

(1) The father and mother shall have the joint custody, nurture and education of their children who are under the age of eighteen (18). If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture and education of the children who are under the age of eighteen (18). The father shall be primarily liable for the nurture and education of his children who are under the age of eighteen (18). ***The father shall extend support for an unmarried child over the age of eighteen (18) when the child is a full-time high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years.***

(2) The father and mother shall have the joint custody, care and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care and support of such children."

Orders of the Day (Continued)

HB 374 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 374** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 2, 1992 roll call on **HB 374** - Appendix.)

HB 374 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 374** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 381, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved the adoption of the Committee Substitute to **HB 381**. Agreed.

Representative K. Harper moved that **HB 381**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 9. (See March 2, 1992 roll call on **HB 381** - Appendix.)

HB 381, by way of Committee Substitute, was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 381**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 578, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 578**. Agreed.

Representative Richards moved that **HB 578**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 2, 1992 roll call on **HB 578** - Appendix.)

HB 578, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 578**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 349 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 349** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 2, 1992 roll call on **HB 349** - Appendix.)

HB 349 was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 349** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 55**, by Representative P. Clark:

Amend printed copy of **SB 55/GA** on page 9, after line 17, by inserting the following:

"Section 5. Because the primary election scheduled for May 26, 1992, will occur before the regular effective date of legislation enacted during the 1992 regular session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Orders of the Day (Continued)

HB 506, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 1 to **HB 506**. Agreed.

Representative Arnold moved that **HB 506**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 2, 1992 roll call on **HB 506** - Appendix.)

HB 506, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 506**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 550 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 550** be passed.

On the roll call the vote was: Yeas 78, Nays 11. (See March 2, 1992 roll call on **HB 550** - Appendix.)

HB 550 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 550** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 592, with Committee Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 592**. Agreed.

Representative Clarke moved that **HB 592**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See March 2, 1992 roll call on **HB 592** - Appendix.)

HB 592, as amended, was passed.

Representative Clarke moved the adoption of the Committee Title Amendment to **HB 592**. Agreed; and the title was agreed to.

Representative Clarke moved that the vote by which **HB 592**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 238, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of Floor Amendment No. 1 to **HB 238**. Agreed.

Representative Gregory moved that **HB 238**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 11. (See March 2, 1992 roll call on **HB 238** - Appendix.)

HB 238, as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 238**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 504**, by Representative Arnold:

Amend printed copy of **HB 504/HCS** on page 12, line 26, by deleting the word "***unable***" and inserting in lieu thereof the words "***choosing not***"; and

On page 13, line 1, by deleting the word "***immediately***"; and

On page 13, line 2, by deleting the words "***in the discretion of***" and inserting in lieu thereof the word "***by***"; and

Orders of the Day (Continued)

HB 66, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 66** is as follows:

Amend printed copy of **HB 66/GA** on page 14, line 15, after "community;", by inserting the following:

"***one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky;***"; and

On page 14, lines 16 and 17, after "large;", by bracketing and striking through the following:

"two (2) members", and inserting in lieu thereof the following:

"***one (1) member***"

The Senate Amendment No. 2 to **HB 66** is as follows:

Amend printed copy of **HB 66/GA** on page 20, line 20, after "***used***" by inserting the following: "***by a qualified business***"; and

On page 20, line 24, after "***used***" by inserting the following: "***by a qualified business***".

Representative Donnermeyer moved that the House concur in Senate Amendment No. 1 to **HB 66**. Agreed.

Representative Donnermeyer moved that the House concur in Senate Amendment No. 2 to **HB 66**. Agreed.

Representative Donnermeyer moved that **HB 66**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 4. (See March 2, 1992 roll call on **HB 66** - Appendix.)

HB 66, as amended by the Senate, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 66**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 196, with Senate Amendments and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 196** is as follows:

Amend printed copy of **HB 196/GA** on page 1, line 21 remove all new language; and

On page 2, lines 1 and 2 remove brackets and strikethroughs, and

On page 2, lines 12 and 13 remove all new language; and

On page 2, lines 13 through 15 remove brackets and strikethroughs; and

On page 2, line 17 remove all new language; and

On page 2, lines 18 through 20 remove brackets and strikethroughs.

The Senate Amendment No. 2 to **HB 196** is as follows:

Amend printed copy of **HB 196/GA** on page 3, by deleting lines 2 through 8 in their entirety.

The Senate Floor Amendment No. 3 to **HB 196** is as follows:

Amend printed copy of **HB 196/GA** on page 3, after line 8, by adding the following:

"Section 3. KRS 159.080 is amended to read as follows:

(1) Each [~~board of education shall, upon the nomination and recommendation of the~~] superintendent ***of a local school district shall***[~~,~~] appoint a director of pupil personnel and [~~such~~] assistants as are deemed necessary. Salaries of directors and assistants shall be fixed by the board of education.

(2) Directors of pupil personnel and assistants shall have the general qualifications of teachers and, in addition, shall hold a valid certificate issued in accordance with the rules and regulations of the State Board for Elementary and Secondary Education. Certificates valid on January 1, 1956, for attendance officer shall hereafter be valid for the positions of director of pupil personnel. [~~Such~~] Certificates shall be reissued or renewed in accordance with the terms of the state board regulations applying at the date of issue.

(3) Directors of pupil personnel and assistants shall be allowed their necessary and authorized expenses incurred in the performance of their duties. Each board shall bear the expense of its directors of pupil personnel and assistants incurred in its district.

(4) The office of the superintendent of schools shall be the office of the director of pupil personnel and suitable space shall be provided therein or adjacent thereto for him.

Section 4. KRS 159.090 is amended to read as follows:

[~~The boards of education of~~] Two (2) or more contiguous school districts may unite to form one (1) attendance district and ***the superintendent of schools of the districts*** shall appoint [~~such~~] directors of pupil personnel as are necessary. [~~The superintendents of the districts concerned shall jointly make the nominations and recommendations relating to the directors of pupil personnel to the boards of education meeting jointly, and a majority vote of each board shall determine all questions.~~] The salary of directors of pupil personnel in united districts shall be borne by the employing boards in the proportion that the average daily attendance of each district bears to the total average daily attendance of the united district.".

Representative Bowling moved that the House concur in Senate Amendment No. 1 to **HB 196**. Agreed.

Representative Bowling moved that the House concur in Senate Amendment No. 2 to **HB 196**. Agreed.

Representative Bowling moved that the House concur in Senate Floor Amendment No. 3 to **HB 196**. Agreed.

Representative Bowling moved that **HB 196**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 8. (See March 2, 1992 roll call on **HB 196** - Appendix.)

HB 196, as amended by the Senate, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 196**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 285, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **HB 285**. Agreed.

Representative Noe moved that **HB 285**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 2, 1992 roll call on **HB 285** - Appendix.)

HB 285, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 285**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **SB 15** be passed.

On the roll call the vote was: Yeas 83, Nays 9. (See March 2, 1992 roll call on **SB 15** - Appendix.)

SB 15 was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 15** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 700**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 763, by Representative Lear: AN ACT relating to crimes and punishments.

HB 764, by Representative Lear: AN ACT relating to overdimensional vehicles.

HB 765, by Representatives Reinhardt and Jones: AN ACT relating to local government.

HB 766, by Representative Gray: AN ACT relating to civil rights.

HB 767, by Representatives Sheehan, Donnermeyer and Rapier: AN ACT relating to pupil transportation.

HB 768, by Representative R. Smith: AN ACT relating to government control of private property.

HB 769, by Representatives Ford and Napier: AN ACT relating to auctioneers, auctions, and auction house operators.

HB 770, by Representative Johnson: AN ACT relating to civil liability.

HB 771, by Representative Johnson: AN ACT relating to civil liability.

HB 772, by Representative Rapier: AN ACT relating to school funding and declaring an emergency.

HB 773, by Representative Little: AN ACT relating to motor vehicle registration.

HB 774, by Representatives Jones, Ridley, Ark and J. Harper: AN ACT relating to the manner in which executions are conducted.

HB 775, by Representative Barrows: AN ACT relating to tobacco sales.

HB 776, by Representatives Stumbo and Clarke: AN ACT relating to Kentucky Retirement Systems and declaring an emergency.

HB 777, by Representatives Mason, Mack, Scorsone, Hatcher and Ward: AN ACT relating to controlled substances.

HB 778, by Representatives Hatcher, Mason and Lewis: AN ACT relating to retirement.

HB 779, by Representative Ward: AN ACT relating to the protest of a tax assessment.

HB 780, by Representatives Ward and L. Clark: AN ACT relating to revenue and taxation.

HB 781, by Representative Hancock: AN ACT relating to deferred compensation.

HB 782, by Representative Worthington: AN ACT relating to Appropriations and the Road Fund.

HB 783, by Representative Riner: AN ACT relating to county agreements with utilities.

HB 784: Pursuant to House Rule 50, **HB 784** is considered not introduced for technical reasons.

HB 785, by Representative B. Smith: AN ACT relating to teachers' retirement at regional universities.

HB 786, by Representative Little: AN ACT relating to revenue and taxation.

HB 787, by Representatives Bentley, Ravenscraft and Collins: AN ACT relating to higher education.

HR 146, by Representative Geveden: A RESOLUTION in loving memory and honor of Doris Elaine Owens.

HJR 147, by Representative Ridley: A JOINT RESOLUTION directing the Interim Joint Committee on Transportation to study the needs of the automobile recycling industry in the state of Kentucky.

HJR 148, by Representatives Little, Deskins and Mason: A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on U. S. 23 in Pike County that crosses Shelby Creek the Lawrence Branham Bridge.

HCR 149, by Representative Worthington: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Appropriations and Revenue to study the various taxes and fees affecting senior citizens in Kentucky.

HR 150, by Representative Hancock: A RESOLUTION honoring Russell and Margaret Garnett upon the occasion of their sixtieth wedding anniversary.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 747**

Natural Resources and Environmental Protection: **HB 647, HB 729, HB 736**

Economic Development: **HB 680, HB 681, HB 726**

Health and Welfare: **HB 683, HB 686, HB 688, HB 690, HB 693, HB 715, HB 717, HB 678**

Motions, Petition and Communications (Continued)

Representative Stumbo moved that **HB 670** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill:

Education: **HB 735**

Motions, Petitions and Communications (Continued)

Representative Hancock moved the adoption of the following **HR 150**:

HR 150, A RESOLUTION honoring Russell and Margaret Garnett upon the occasion of their sixtieth wedding anniversary.

WHEREAS, marriage can be likened to a flower, watered by the showers of tender affection, expanded by the cheering glow of kindness, and guarded by the inpenetrable barrier of unshaken confidence; and

WHEREAS, Mr. and Mrs. Russell T. Garnett entered into the bonds of holy matrimony on January 9, 1932, in Jeffersonville, Indiana; and

WHEREAS, Mr. and Mrs. Russell T. Garnett have experienced sixty years filled with love, perpetual friendship, confidence, and integrity; and

WHEREAS, Mr. and Mrs. Russell T. Garnett are the loving parents of Eleanor Jo Garnett Blakeman and the adoring grandparents of Susan Gail and Mark Allen Blakeman; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly congratulates Russell and Margaret Garnett upon the occasion of their sixtieth wedding anniversary on January 9, 1992.

Section 2. That this honorable body wishes to Russell and Margaret Garnett many more happy years of married life together.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. and Mrs. Russell T. Garnett, 1034 Navajo Trail, Frankfort, Kentucky 40601.

HR 150 was adopted by voice vote.

Representative Geveden moved the adoption of the following **HR 146**:

HR 146, A RESOLUTION in loving memory and honor of Doris Elaine Owens.

With deepest regret, we pay homage and tribute to Doris Elaine Owens.

WHEREAS, Doris Elaine Owens, a native of Wickliffe, Kentucky, was born on June 4, 1908, and traversed these earthly bounds on February 27, 1992; and

WHEREAS, Doris Elaine Owens was the loving daughter of Alva T. Owens and Dora Fisher Owens, and the adored sister of Al T. Owens; and

WHEREAS, Doris Elaine Owens was a highly respected public official, serving as Clerk of the Court of Appeals during the Chandler and Combs administrations; and

WHEREAS, her late brother, Frank Owens, also was Clerk of the Court of Appeals, resulting in their being the only brother and sister elected to a statewide constitutional office; and

WHEREAS, Doris Elaine Owens was a delegate to the Democratic National Convention in 1960 and became assistant to the administrator of the courts in 1963, a post she held until her retirement in 1974; and

WHEREAS, Doris Elaine Owens' contributions to this great Commonwealth are beyond measure and will have lasting impact;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is indeed saddened by the loss of Doris Elaine Owens, and extends to her family and many friends its deepest expression of sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Doris Elaine Owens.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Al T. Owens, 8915 Marks Field Circle, Apartment No. 7, Louisville, Kentucky 40220.

HR 146 was adopted by voice vote.

Representative Collins moved the adoption of the following Legislative Citation No. 38. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Bobby VanHoose of Johnson Central High School, for claiming the state high school wrestling championship for the 103-pound weight division. Your outstanding win/loss record of 47-2 is a reflection of your dedication, hard work and competitive spirit. May the memories and merits of this achievement guide you through future endeavors.

This prestigious body joins Representative Hubert Collins in congratulating you for your great accomplishments. We extend to you our best wishes for future victories.

Representative Collins moved the adoption of the following Legislative Citation No. 39. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and congratulates Bruce Stepp of Sheldon Clark High School, for claiming the state high school wrestling championship for the 189-pound weight division. Your outstanding win/loss record of 40-0 is a reflection of your dedication, hard work and competitive spirit. May the memories and merits of this achievement guide you through future endeavors.

This prestigious body joins Representative Hubert Collins in congratulating you for your great accomplishments. We extend to you our best wishes for future victories.

Representative Lewis moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that he be recorded as voting "yea" on **HB 285**. Agreed.

Representative Heleringer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Heleringer moved that he be recorded as voting "yea" on **HB 550**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 568**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills: **HB 114**, Representative Butler; **HB 203**, Representative Reinhardt; **HB 238**, Representative Lile; **HB 365**, Representative Adkins; **HB 455**, Representative P. Clark; **HB 703**, Representative Donnermeyer.

The following member filed a request to have his name withdrawn as co-sponsor to a Bill: **HB 431**, Representative J. Harper;

Announcements

The following meetings were announced:

Judiciary, Subcommittee on Appropriations and Revenue, Room 113, March 2, 1992 upon adjournment.

Cities, 9:00 a.m., March 3, 1992, Room 131.

Agriculture and Small Business, 9:00 a.m., March 3, 1992, Room 129.

Banking and Insurance, 10:00 a.m., March 3, 1992.

Budget Review Subcommittee on General Government, March 3, 1992, 12 Noon.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 3, 1992.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Ward, Worthington, Yates, Zimmerman. Nays 5—Barrows, Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, MARCH 3, 1992

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Dallas Vincent, Ormsby Heights Baptist Church, Pleasure Ridge Park.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 2, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 29**, **SB 87**, **SB 137**, **SB 160**, **SB 190**, **SB 215**, **HB 136** with Committee Amendment, **HB 342** with Floor Amendment, **HB 3**, **HB 159**, **HB 176**, **HB 232** and **HB 399**. (Time: 2:03 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 66** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:04 p.m.)

HB 66 was delivered to the Senate and signed by the President. Delivered to the Governor on March 3, 1992 at 2:11 p.m.

Introduction of Bills and Resolutions

HB 788, by Representatives Noe, Bowling, Geveden, Bentley, Curd, Mack, Mason, Little, Hatcher, Barrows, Hourigan, Coleman, Rapier, Moberly and Ravenscraft: AN ACT relating to teachers' retirement and declaring an emergency.

HB 789, by Representative Ark: AN ACT relating to recycling of waste.

HB 790, by Representative Arnold: AN ACT relating to revenue and taxation.

HB 791, by Representative Arnold: AN ACT relating to livestock.

HB 792, by Representative Riggs: AN ACT relating to local governments.

HR 151, by Representative Collins: A RESOLUTION honoring Bobby VanHoose, state high school wrestling champion of Johnson Central High School in Johnson County.

HR 152, by Representative Collins: A RESOLUTION honoring Bruce Stepp and his teammates of Sheldon Clark High School in Martin County.

HCR 153, by Representatives Arnold, Worthington, Hancock, Crupper, Farrow, Reinhardt, Turner, Gedling, Todd, Napier, Gee, Zimmerman, Sanders, Richards, Mullinix, Lyne, McElroy, B. Smith, Kerr, Coleman and Bruce: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose for submission to the states an amendment to the United States Constitution to prohibit the physical desecration of the American flag.

HCR 154, by Representatives Arnold, R. Smith, Geveden, Ridley, Jones, Bruce, Riggs, McElroy, Altman, L. Clark, Lewis, Mullinix, Bronger and K. Harper: A CONCURRENT RESOLUTION relating to a uniform school opening date.

HR 155, by Representative Donnermeyer: A RESOLUTION honoring Representative C. M. "Hank" Hancock on the occasion of his birthday.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 775**

Appropriations and Revenue: **HB 776, HB 779, HB 780, HB 782, HCR 149, HB 772**

Banking and Insurance: **HB 754, HB 785**

Business Organizations and Professions: **HB 753, HB 769**

Counties and Special Districts: **HB 761, HB 765**

Economic Development: **HB 762**

Education: **HB 755, HB 767, HB 787, SB 78**

Health and Welfare: **HB 777**

Judiciary: **HB 756, HB 763, HB 770, HB 771, HB 774, HB 757, HB 766**

Labor and Industry: **HB 759**

Natural Resources and Environmental Protection: **HB 768**

State Government: **HB 758, HB 760, HB 778, HB 781**

Tourism and Energy: **HB 783**

Transportation: **HB 764, HB 773, HB 786, HJR 147, HJR 148**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **HB 670**

Education: **HB 742, HB 734, HB 735, HB 750**

Appropriations and Revenue: **HB 451, HB 467, HB 468, HB 543, HB 123**

Cities: **SB 151**

Economic Development: **HB 738**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 439**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 559**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 559** is as follows:

HB 559, AN ACT relating to the livestock fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

(1) (a) In order to provide for the timely and proper disposal of dead livestock as required by KRS 257.160, an alternative procedure to KRS 258.275 and 258.285 is established to receive payment from the state livestock fund for damage to livestock, poultry, property, or persons caused by a dog or coyote.

Under this alternative procedure, the owner of the killed, injured, or damaged livestock, poultry, or property, or the person sustaining personal injury, may submit an appraisal of the loss within seventy-two (72) hours after the damage is done.

(b) The appraisal of loss shall be set out in a written claim stating the amount of monetary damage, and shall also be signed by a witness to the damage, who shall not be a family member. The claim shall be sent to the department which shall process the claim for payment from the livestock fund.

(2) The Commissioner may investigate any claim filed under this alternative procedure and take appropriate action as required.

SECTION 2. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

The department may use up to twenty percent (20%) of the money in the livestock fund to match federal funds for the control of predators.

The Committee on Agriculture and Small Business reported **HB 666** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 666, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.710 is amended to read as follows:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of burley tobacco shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of burley tobacco in promoting and stimulating, by research, market development, ***establishing a system for making available labor for setting, cutting, housing, and stripping,*** and education, the increased production, use and sale, domestic and foreign, of burley tobacco and burley tobacco products.

Section 2. KRS 247.725 is amended to read as follows:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of burley tobacco shall be permitted by referendum, to be held among such respective groups, and subject to the provisions of KRS 247.710 to 247.785, to levy upon themselves an assessment on burley tobacco and provide for the collection of the same for the purpose of financing or contributing towards the financing of a program of research, market development, ***establishing a system for making available labor for setting, cutting, housing, and stripping,*** and education to increase the domestic and foreign consumption, use, sale, and markets for burley tobacco and burley tobacco products. ***The Agriculture Labor Association, the existing system established for making available labor for setting, cutting, housing, and stripping tobacco, shall receive forty percent (40%) of the annual assessment collected on burley tobacco.***

The Committee on Banking and Insurance reported **HB 433**, with Committee Substitute attached thereto, **HB 497**, **HB 597**, with Committee Substitute attached thereto, and **HB 613** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 433, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.3-240 TO 304.3-245 IS CREATED TO READ AS FOLLOWS:

The annual statement required by KRS 304.3-240 shall be completed in accordance with accounting practices and procedures which meet or exceed the accounting practices and procedures established by the National Association of Insurance Commissioners.

SECTION 2. A NEW SECTION OF KRS 304.3-240 TO 304.3-245 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, a "qualified loss reserve specialist" means a person who is not a director, principal, or direct or indirect owner of an insurer and is a member in good standing of the Casualty Actuarial Society, and the American Academy of Actuaries, and who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries, or has other

experience acceptable to the commissioner to assure a professional opinion on the adequacy of loss and loss adjustment expense reserves.

(2) The board of directors of every insurer authorized to transact property or casualty insurance and required to file an annual statement with the commissioner pursuant to KRS 304.3-240 shall engage a qualified loss reserve specialist to certify the adequacy of the insurer's loss and loss adjustment expense reserves. The report shall be filed with the annual statement required by KRS 304.3-240.

(3) The statement of opinion required by this section shall consist of at least the following information:

(a) Identification of the qualified loss reserve specialist;

(b) Identification of the subjects on which the opinion is to be expressed and a description of the scope of the qualified loss reserve specialist's work;

(c) An expression of the qualified loss reserve specialist's opinion with respect to the subjects required to be described in paragraph (b) of this subsection; and

(d) Additional information which the qualified loss reserve specialist considers necessary to state a qualification of opinion or to explain any aspect of the annual statement which is not already sufficiently explained in the annual statement.

(4) It shall not be necessary to file the report required by this section in the following instances:

(a) An insurer that has less than one million dollars ($1,000,000) total direct plus assumed written premiums during a calendar year, or that has less than one thousand (1,000) policyholders or certificate holders at the end of a calendar year. An insurer which intends to utilize this exemption shall submit a letter of intent to the insurance regulatory official in its domiciliary state no later than December 1 of the calendar year for which the exemption is to be claimed;

(b) An insurer which is under rehabilitation, liquidation, or any other delinquency proceeding ordered pursuant to a statutory provision, unless ordered to make the report by the insurance regulatory official in its domiciliary state;

(c) An insurer writing property insurance only if the exemption is agreed to by the insurance regulatory official in the insurer's domiciliary state; or

(d) Filing the report would constitute financial hardship, which is presumed to exist if the projected reasonable cost of the report would exceed the lesser of:

1. One percent (1%) of the insurer's capital and surplus reflected in the insurer's annual statement for the calendar year for which the exemption is sought; or

2. Three percent (3%) of the insurer's net direct plus assumed premiums written during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with the insurance regulator official in its domiciliary state.

Section 3. KRS 304.7-350 is amended to read as follows:

(1) All obligations having a fixed term, rate, and face value held by an insurer authorized to do business in this state may, if amply secured and not in default either as to principal or interest, be valued as follows: if acquired at face value, at the face value; if acquired above or below face value, on the basis of the purchase price adjusted annually to bring the value to face value at maturity and so as to yield in each year the effective rate of interest at which the purchase was made. The amortization provided for in this subsection may be calculated with reasonable approximations. The commissioner shall have the power to determine by rule the eligibility of investments for valuation under this subsection.

(2) (a) Securities, other than those referred to in subsection (1) of this section, held by an insurer shall be valued, in the discretion of the commissioner, at their fair market value, [~~or~~] at their appraised value, or at prices determined by the commissioner as representing their fair market value.

(b) Preferred or guaranteed stock or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with ***the*** [~~such~~] method of computation [~~as~~] he ***approves*** [~~may approve~~].

(c) Securities qualifying under KRS 304.7-120 and 304.7-270 shall be valued at their fair value or net equity value, except that securities of a subsidiary insurance corporation as provided for in KRS 304.7-120 shall be valued either at cost or on a net equity basis, whichever is greater.

(3) (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of [~~such~~] acquisition, together with any taxes and expenses paid or incurred in connection with [~~such~~] acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal deemed by the commissioner to be reliable. If valuation is based on an appraisal more than three (3) years old, the commissioner may, at his discretion, call for and require a new appraisal in order to determine fair value.

(c) Personal property acquired pursuant to chattel mortgages or security agreements made in accordance with subsection (8) of KRS 304.7-200 shall not be valued at an amount greater than the unpaid principal of the defaulted loan at the date of [~~such~~] acquisition, together with any taxes and expenses paid or incurred in connection with [~~such~~] acquisition, or the fair value of ***the*** [~~such~~] property, whichever amount is the lesser.

(4) However, in all cases securities shall be valued in accordance with the standards promulgated by the securities valuation office of the National Association of Insurance Commissioners and other assets shall be valued in accordance with standards promulgated by the National Association of Insurance Commissioners Financial Condition Subcommittee.

Section 4. KRS 304.33-330 is amended to read as follows:

(1) ***Mutual debts or mutual credits, whether arising out of one (1) or more contracts, between the insurer and another person in connection with any action or proceeding under this subtitle shall be setoff and the balance only shall be allowed or paid, except as provided in subsections (2), (3), and (4) of this section and KRS 304.33-215.***

(2) Setoff shall not be allowed in favor of any person if:

(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle the person to share as a claimant in the assets of the insurer;

(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff;

(c) The obligation of the insurer is owed to an affiliate of the person, or any other entity or association other than the person;

(d) The obligation of the person is owed to an affiliate of the insurer, or any other entity or association other than insurer;

(e) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(f) The obligations between the person and the insurer arise from business which is both ceded to and assumed from the insurer, except that the rehabilitator may, with regard to the business, allow certain setoffs in rehabilitation if he shall find the allowance of these setoffs appropriate.

(3) The liquidator shall provide persons that assumed business from the insurer with accounting statements identifying debts which are currently due and payable. These persons may setoff against the debts only mutual credits which are currently due and payable by the insurer to the persons for the period covered by the accounting statement.

(4) A person that ceded business to the insurer may setoff debts due the insurer against only those mutual credits which the person has paid or which have been allowed in the insurer's delinquency proceeding.

(5) A setoff of sums due on obligations described in subsection (2)(f) of this section shall be allowed for those sums accruing from the business written if the contracts were entered into, renewed, or extended

with the express written approval of the insurance regulatory official of the state of domicile of the now insolvent insurer, when in the judgment of the insurance regulatory official it was necessary to provide reinsurance in order to prevent or mitigate a threatened impairment or insolvency of the domiciliary insurer in connection with the exercise of the insurance regulatory official's regulatory responsibilities.

(6) Sections 1 to 5 of this Act shall apply to all contracts entered into, renewed, extended, or amended on or after six (6) months from the effective date of this Act. For purposes of this section, any change in the terms of, or consideration for, any contract shall be an amendment [~~Setoffs allowed in general. Mutual debt or mutual credits between the insurer and another person in connection with any action or proceeding under this subtitle shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) of this section.~~

~~(2) Exceptions. No setoff or counterclaim shall be allowed in favor of any person where:~~

~~(a) The obligation of the insurer to the person would not at the date of the filing of a petition for liquidation entitle him to share as a claimant in the assets of the insurer;~~

~~(b) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff;~~

~~(c) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or~~

~~(d) The obligation of the person is to pay premiums, whether earned or unearned, to the insurer~~].

SECTION 5. A NEW SECTION OF KRS 304.3-120 TO 304.3-140 IS CREATED TO READ AS FOLLOWS:

The commissioner may require capital and surplus in addition to the requirements of KRS 304.3-120 based on the type, volume, and nature of insurance business transacted.

The Committee Substitute to **HB 433** is as follows:

HB 433, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.3-240 TO 304.3-245 IS CREATED TO READ AS FOLLOWS:

The annual statement required by KRS 304.3-240 shall be completed in accordance with accounting practices and procedures which meet or exceed the accounting practices and procedures established by the National Association of Insurance Commissioners.

SECTION 2. A NEW SECTION OF KRS 304.3-240 TO 304.3-245 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, a ''qualified loss reserve specialist'' means a person who is not a director, principal, or direct or indirect owner of an insurer and is a member in good standing of the Casualty Actuarial Society, and the American Academy of Actuaries, and who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries, or has other experience acceptable to the commissioner to assure a professional opinion on the adequacy of loss and loss adjustment expense reserves.

(2) The board of directors of every insurer authorized to transact property or casualty insurance and required to file an annual statement with the commissioner pursuant to KRS 304.3-240 shall engage a qualified loss reserve specialist to certify the adequacy of the insurer's loss and loss adjustment expense reserves. The report shall be filed with the annual statement required by KRS 304.3-240.

(3) The statement of opinion required by this section shall consist of at least the following information:

(a) Identification of the qualified loss reserve specialist;

(b) Identification of the subjects on which the opinion is to be expressed and a description of the scope of the qualified loss reserve specialist's work;

(c) An expression of the qualified loss reserve specialist's opinion with respect to the subjects required to be described in paragraph (b) of this subsection; and

(d) Additional information which the qualified loss reserve specialist considers necessary to state a qualification of opinion or to explain any aspect of the annual statement which is not already sufficiently explained in the annual statement.

(4) It shall not be necessary to file the report required by this section in the following instances:

(a) An insurer that has less than one million dollars ($1,000,000) total direct plus assumed written premiums during a calendar year, or that has less than one thousand (1,000) policyholders or certificate holders at the end of a calendar year. An insurer which intends to utilize this exemption shall submit a letter of intent to the insurance regulatory official in its domiciliary state no later than December 1 of the calendar year for which the exemption is to be claimed;

(b) An insurer which is under rehabilitation, liquidation, or any other delinquency proceeding ordered pursuant to a statutory provision, unless ordered to make the report by the insurance regulatory official in its domiciliary state;

(c) An insurer writing property insurance only if the exemption is agreed to by the insurance regulatory official in the insurer's domiciliary state; or

(d) Filing the report would constitute financial hardship, which is presumed to exist if the projected reasonable cost of the report would exceed the lesser of:

1. One percent (1%) of the insurer's capital and surplus reflected in the insurer's annual statement for the calendar year for which the exemption is sought; or

2. Three percent (3%) of the insurer's net direct plus assumed premiums written during the calendar year for which the exemption is sought as reflected in the insurer's annual statement filed with the insurance regulator official in its domiciliary state.

Section 3. KRS 304.7-350 is amended to read as follows:

(1) All obligations having a fixed term, rate, and face value held by an insurer authorized to do business in this state may, if amply secured and not in default either as to principal or interest, be valued as follows: if acquired at face value, at the face value; if acquired above or below face value, on the basis of the purchase price adjusted annually to bring the value to face value at maturity and so as to yield in each year the effective rate of interest at which the purchase was made. The amortization provided for in this subsection may be calculated with reasonable approximations. The commissioner shall have the power to determine by rule the eligibility of investments for valuation under this subsection.

(2) (a) Securities, other than those referred to in subsection (1) of this section, held by an insurer shall be valued, in the discretion of the commissioner, at their fair market value, [~~or~~] at their appraised value, or at prices determined by the commissioner as representing their fair market value.

(b) Preferred or guaranteed stock or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with ***the*** [~~such~~] method of computation [~~as~~] he ***approves*** [~~may approve~~].

(c) Securities qualifying under KRS 304.7-120 and 304.7-270 shall be valued at their fair value or net equity value, except that securities of a subsidiary insurance corporation as provided for in KRS 304.7-120 shall be valued either at cost or on a net equity basis, whichever is greater.

(3) (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of [~~such~~] acquisition, together with any taxes and expenses paid or incurred in connection with [~~such~~] acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal deemed by the commissioner to be reliable. If valuation is based on an appraisal more than three (3) years old, the commissioner may, at his discretion, call for and require a new appraisal in order to determine fair value.

(c) Personal property acquired pursuant to chattel mortgages or security agreements made in accordance with subsection (8) of KRS 304.7-200 shall not be valued at an amount greater than the unpaid principal of the defaulted loan at the date of [~~such~~] acquisition, together with any taxes and expenses paid or incurred in connection with [~~such~~] acquisition, or the fair value of ***the*** [~~such~~] property, whichever amount is the lesser.

(4) However, in all cases securities shall be valued in accordance with the standards promulgated by the securities valuation office of the National Association of Insurance Commissioners and other assets shall be valued in accordance with standards promulgated by the National Association of Insurance Commissioners Financial Condition Subcommittee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304.3-120 IS CREATED TO READ AS FOLLOWS:

The commissioner is hereby granted authority to adopt administrative regulations, up to the standards prescribed by the National Association of Insurance Commissioners, covering requirements for additional capital and surplus based on the kind, type, volume, and nature of insurance business transacted, if and when any regulations are promulgated and adopted by the National Association of Insurance Commissioners as its model regulation on the subject and as a requirement for departmental certification by the association.

HB 497, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.99-060 is amended to read as follows:

(1) The owner of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

(a)[~~(1)~~] Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000);

(b)[~~(2)~~] Have the license plates of such vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect; and

(c)[~~(3)~~] For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560***;***

(2) Minimum fines, suspensions, and penalties under subsection (1) of this section are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(3) Upon expiration of the minimum six (6) month policy period, the court shall order the vehicle owner to appear before it to verify renewal of the security required by Subtitle 39 of this chapter by production of proof of security and a receipt showing that a premium for a mimimum six (6) month policy period has been paid.

(4) Failure to appear shall result in the suspension of the vehicle owner's operator's license pursuant to KRS 186.570.

(5) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.

(6) Unless the requirement of subsection (3) of this section is satisfied, the court shall revoke any conditional discharge, suspension, or other form of reduction of penalty granted under subsection (2) of this section.

Section 2. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, whenever the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. Such hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the cabinet.

(3) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident.

(4) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(5) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

HB 597, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Retail purchasers of any used vehicle shall present to the county clerk proof of security required by this subtitle before the vehicle may be transferred to the retail purchaser.

(2) Retail purchasers of vehicles from outside of the Commonwealth, shall present to the county clerk proof of security required by this subtitle before the vehicle may be transferred to the retail purchaser.

The Committee Substitute to **HB 597** is as follows:

HB 597, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Retail purchasers of any new or used vehicle shall present to the county clerk proof of security required by this subtitle within seven (7) days, after the vehicle is transferred to the retail purchaser.

(2) Retail purchasers of vehicles from outside of the Commonwealth, shall present to the county clerk proof of security required by this subtitle within seven (7) days, after the vehicle is transferred to the retail purchaser.

(3) Failure to comply with subsection (1) of this section, shall not prevent or affect transfer of title.

HB 613, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act, unless the context requires otherwise:

(1) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries;

(2) "Insurer" means any person duly authorized as an insurer by the commissioner;

(3) "Controlling agent" means any person who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the insurer whether known as a controlling agent or other name, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to more than five percent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one (1) quarter or year, and who also adjusts or pays claims in excess of an amount determined by the commissioner, or negotiates reinsurance on behalf of the insurer. The following persons shall not be considered controlling agents:

(a) An employee of the insurer;

(b) A United States manager of the United States branch of an alien insurer;

(c) An underwriting manager which, pursuant to contract, manages all the insurance operations of the insurer, is under common control with the insurer, subject to Subtitle 37 of this chapter, and whose compensation is not based on the volume of premiums written; and

(d) The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer, Lloyd's plan insurer, or interinsurance exchange under powers of attorney.

(4) "Underwrite" means the authority to accept or reject risks on behalf of the insurer.

SECTION 2. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not be, act as, or hold himself out as a controlling agent with respect to risks located in Kentucky for an insurer authorized in Kentucky unless the person is licensed as agent by Kentucky.

(2) A person shall not be, act as, or hold himself out as a controlling agent representing an insurer domiciled in Kentucky with respect to risks located outside Kentucky unless the person is licensed as an agent by Kentucky.

(3) The commissioner may require a controlling agent to provide evidence of financial repsonsibility in the form and amount acceptable to the commissioner for the protection of the insurer, policyholders, and claimants.

SECTION 3. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A person acting in the capacity of controlling agent shall not place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and, where both parties share repsonsibility for a particular function, specifies the division of these responsibilities, and which contains the following minimum provisions:

(1) The insurer may terminate the contract for cause upon written notice to the controlling agent. The insurer may suspend the underwriting authority of the controlling agent during the pendency of any dispute regarding the termination;

(2) The controlling agent shall render account to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis;

(3) All funds collected for the account of the insurer shall be held by the controlling agent in a fiduciary capacity in a bank which is a member of the federal reserve system. This account shall be used for all payments on behalf of the insurer. The controlling agent may retain no more than three (3) months estimated claims payments and allocated loss adjustment expenses;

(4) Separate records of business written by the controlling agent shall be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer, and the commissioner shall have access to all books, bank accounts, and records of the controlling agent in a form usable to the commissioner. These records shall be retained according to KRS 304.2-220 and the commissioner's administrative regulations;

(5) The contract shall not be assigned in whole or in part by the controlling agent;

(6) Appropriate underwriting guidelines, including:

(a) The maximum annual premium volume;

(b) The basis of the rates to be charged;

(c) The types of risks which may be written;

(d) Maximum limits of liability;

(e) Applicable exclusions;

(f) Territorial limitations;

(g) Policy cancellation provisions, including a statement that the insurer shall have the right to cancel or nonrenew any policy of insurance subject to applicable laws concerning the cancellation and nonrenewal of insurance policies; and

(h) The maximum policy period.

(7) If the contract permits the controlling agent to settle claims on behalf of the insurer;

(a) All claims shall be reported to the insurer in a timely manner;

(b) A copy of the claim file shall be sent to the insurer at its request or an soon as it becomes known that the claim:

1. Has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the insurer, whichever is less;

2. Involves a coverage dispute;

3. May exceed the controlling agent's claims settlement authority;

4. Is open for more than six (6) months; or

5. Is closed by payment of an amount set by the commissioner or an amount set by the insurer, whichever is less;

(c) All claim files shall be the joint property of the insurer and the controlling agent. However, upon an order of liquidation of the insurer the claim files shall become the sole property of the insurer or its estate. The controlling agent shall have reasonable access to and the right to copy the files; and

(d) Any settlement authority granted to the controlling agent may be terminated for cause upon the insurer's written notice to the controlling agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(8) Where electronic claims files are in existence, the contract shall address the timely transmission of the data;

(9) If the contract provides for a sharing of interim profits by the controlling agent, and the controlling agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits shall not be paid to the controlling agent until one (1) year after they are earned for property insurance business and five (5) years after they are earned on casualty business, and not until the profits have been verified pursuant to Section 4 of this Act;

(10) The controlling agent shall not:

(a) Bind reinsurance or retrocessions on behalf of the insurer, except that the controlling agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines, including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect the coverages and amounts or percentages that may be reinsured, and commission schedules;

(b) Commit the insurer to participate in insurance or reinsurance syndicates;

(c) Appoint any person producing business without assuring that the person is lawfully licensed to transact the type of insurance for which he is appointed;

(d) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent (1%) of the insurer's policyholder surplus as of December 31 of the last completed calendar year;

(e) Collect any payment for a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report shall be promptly forwarded to the insurer;

(f) Permit its subproducer to serve on the insurer's board of directors;

(g) Jointly employ an individual who is employed with the insurer; or

(h) Appoint a subcontrolling agent.

SECTION 4. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each controlling agent with which it has done business.

(2) If a controlling agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the controlling agent. This is in addition to any other required loss reserve certification.

(3) The insurer shall at least semiannually conduct an on-site review of underwriting and claims processing operations of the controlling agent.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the controlling agent.

(5) Within thirty (30) days of entering into or termination of a contract with a controlling agent, the insurer shall provide written notification of the appointment or termination to the commissioner. Notices of appointment of a controlling agent shall include a statement of the duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is authorized to act, and any other information the commissioner may request.

(6) An insurer shall review its books and records each quarter to determine if any person producing business has become a controlling agent as defined in subsection (3) of Section 1 of this Act. If the insurer determines that a person producing business has become a controlling agent, the insurer shall promptly notify the person producing business and the commissioner of this determination and the insurer and the person producing business must fully comply with the provisions of Sections 1 to 8 of this Act within thirty (30) days.

(7) An insurer shall not appoint to its board of directors an officer, director, employee, subproducer, or controlling shareholder of any of its controlling agents. This subsection shall not apply to relationships governed by Subtitle 37 of this chapter or any provisions of this subtitle pertaining to business transacted with a producer controlled property or casualty insurer.

SECTION 5. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The acts of controlling agents are considered to be the acts of the insurer on whose behalf the controlling agents are acting. A controlling agent may be examined by the commissioner as if it were the insurer.

SECTION 6. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner finds that any person has violated any provision of Sections 1 to 8 of this Act or KRS 304.9-440, the commissioner may order:

(a) For each separate violation, a civil penalty in the amounts set forth in KRS 304.99-020;

(b) Conditions upon, or revocation, or suspension of a license;

(c) The controlling agent to reimburse the insurer, the rehabilitator, or the liquidator of the insurer for any losses incurred by the insurer caused by a violation of Sections 1 to 8 of this Act or KRS 304.9-440 committed by the controlling agent; or

(d) Any combination of paragraphs (a), (b), or (c) of this subsection.

(2) Appeals from orders issued under subsection (1) of this section shall be taken as provided in Subtitle 2 of this chapter.

(3) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties or corrective action provided for under laws administered by the commissioner.

(4) Nothing contained in Sections 1 to 8 of this Act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

SECTION 7. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may promulgate administrative regulations for the implementation and administration of the provisions of Sections 1 to 8 of this Act.

(2) An insurer shall not continue to utilize the services of a controlling agent on and after the effective date of Sections 1 to 8 of this Act unless utilization is in compliance with Sections 1 to 8 of this Act.

Section 8. Sections 1 to 7 of this Act may be cited as the Controlling Agents Act.

The Committee on Cities reported **HB 551**, with Committee Amendment attached thereto, **HB 569**, with Committee Amendment attached thereto, and **HB 700**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 551, AN ACT relating to utility affiliates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public, and public corporations, and all boards, agencies, and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person, except a city, who owns, controls, [~~or~~] operates, or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

(b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

(c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class, or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(10) ***"Affiliate" means a corporation or person who controls, or is controlled by, or has controlling interest in, a utility;***

(11) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to ***the*** [~~such~~] fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(12)[~~(11)~~] "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(13)[~~(12)~~] "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during ***the*** [~~such~~] year and to assure ***the*** [~~such~~] customers of reasonable continuity of service;

(14)[~~(13)~~] "Commission" means the public service commission of Kentucky;

(15)[~~(14)~~] "Commissioner" means one (1) of the members of the commission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Any affiliate of a utility, as defined under Section 1(3)(a), (3)(b), or (3)(c) of this Act which serves a city of the first class, is deemed to be a public utility for the purposes of KRS 278.020, 278.230, 278.250, and 278.300. In exercising the authority granted by this section, the commission shall assure that no capital or assets are diverted from the utility to any affiliate, that an affiliate's action does not endanger the financial position of the utility, and that all transactions between the utility and an affiliate are fair and reasonable.

The Committee Amendment No. 1 to **HB 551** is as follows:

Amend printed copy of **HB 551** on page 4, on line 25, after the word "***affiliate***" and before the comma by inserting and underlining the following, "***without prior approval of the commission***".

HB 569, AN ACT relating to legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.160 is amended to read as follows:

(1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion at a rate per ***column*** [~~linear~~] inch, ***published no larger than nine (9) point type on ten (10) point leading*** [~~single column, computed as solid nine-point measure~~]. The rate shall not exceed the lowest rate paid by advertisers for comparable matter in the same publication.

(2) ***If*** [~~Whenever~~] by law or by the nature of the matter to be published, a display form of advertisement is required, or ***if*** [~~whenever~~] the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive [~~therefor~~] its established display rate.

(3) ***If*** [~~Whenever~~] it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

The Committee Amendment No. 1 to **HB 569** is as follows:

Amend printed copy of **HB 569** on page 1, line 4, after the word "inch,", by inserting the following:

"***computed as or***"

HB 700, AN ACT relating to the Northern Kentucky Convention Center Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that a major convention center in Northern Kentucky will serve as a catalyst in the regional development of commerce, and that it will enhance the position of Northern Kentucky as a year round convention and tourist attraction. The General Assembly finds further that the development and governance of a Northern Kentucky convention center is a public purpose of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Northern Kentucky Convention Center Corporation is hereby established to develop and manage the Northern Kentucky Convention Center. The corporation shall be directed by a board consisting of seven (7) members appointed as follows:

(a) The county judge-executives of Kenton, Campbell and Boone Counties, with the approval of their respective fiscal courts, shall each appoint one (1) member to the board. An appointee under this subsection shall have demonstrated successful business experience in a field related to the convention business;

(b) The mayor of the city within which the convention center is located shall appoint one (1) member, with the approval of the city commission; and

(c) The Governor shall appoint three (3) members, and shall designate a chairman.

(d) One (1) of the initial appointees of the Governor shall have a one (1) year term, one (1) shall have a two (2) year term, and one (1) shall have a three (3) year term. All other appointments, and all subsequent appointments by the Governor, shall be for four (4) year terms.

(e) Members may be removed by the appointing authority only for cause and after being afforded notice, a hearing, and a finding of fact by the appointing authority. A copy of charges, transcript of the record of the hearings and findings of fact shall be filed with the Secretary of State.

(2) The Northern Kentucky Convention Center Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation. Minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(3) The corporation may enact bylaws concerning the election of officers other than the chairman, and other administrative procedures it deems necessary.

SECTION 3. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

The Northern Kentucky Convention Center Corporation:

(1) Shall supervise the design and construction of the Northern Kentucky Convention Center, and shall provide all management functions for the facility and for any other property acquired or leased pursuant to its powers under this section;

(2) May take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in any manner provided by law.

(3) May issue revenue bonds, subject to procedures which shall be established by the Finance and Administration Cabinet, solely payable from the revenues and other funds pledged for their payment for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Shall promote the growth and development of the convention trade, tourism, and the hotel, restaurant, and entertainment industry in Northern Kentucky and the Commonwealth, through utilization of the Northern Kentucky Convention center to enhance these and the public interest;

(5) May adopt administrative regulations, as provided in KRS Chapter 13A, governing the operation, maintenance, or use of property under its custody and control;

(6) May levy a surcharge on tickets for functions held within the center to contribute to operating revenue;

(7) Shall have the exclusive control of all exhibitions, performances, and concessions in the Northern Kentucky Convention Center. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center, and may sell the property upon ten (10) days notice to satisfy any indebtedness:

(8) Shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract conferences and conventions to the region;

(9) May establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by the corporation; and

(10) May sue and be sued and maintain and defend legal actions in its corporate name.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Northern Kentucky Convention Center Corporation may appoint an executive director, who shall hold office at its pleasure. The executive director shall act under the direction of the board of the corporation in employing necessary staff to perform its duties and exercise its powers as assigned by Section 3 of this Act.

(2) The executive director shall keep all minutes, records, and orders of the corporation, and shall be responsible for the preservation of all the documents, which are public records subject to KRS 61.870 to 61.884.

(3) All revenues derived by the corporation from the use of the Northern Kentucky Convention Center, or contributions to the Northern Kentucky Convention Center from other sources as authorized in Section 3 of this Act shall be used solely to defray the expenses of the Northern Kentucky Convention Center, including payment on debt; the cost of management and operation of its facilities; the creation of an adequate reserve for repair, replacement, debt service, and capital improvements; the procurance of insurance; and promotional activities. Any additional revenues derived by the corporation from any other source shall similarly be used solely for the purposes enumerated in this section. An annual audit of all funds of the corporation and its affiliated entities, if any, shall be made by the State Auditor of Public Accounts, and reported to the Governor.

The Committee Amendment No. 1 to **HB 700** is as follows:

Amend printed copy of **HB 700** on page 2, lines 7 and 8, after "***members***" by deleting "***, and shall designate a chairman***"; and

On page 3, line 3, after "***officers***" by deleting "***other than the chairman,***".

The Committee on Appropriations and Revenue reported **HB 345**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 345** is as follows:

Amend printed copy of **HB 345** on page 5, line 16, by deleting the word "***one***" and inserting in lieu thereof the words "***six hundred dollars ($600)***";

And on page 5, line 17, by deleting the words "***hundred fifty dollars ($150)***";

And on page 6, line 18, by deleting the phrase "***or substantially similar***";

And on page 6, line 19, by deleting the word "***titles***".

The Committee on Appropriations and Revenue reported **HB 521**, with Committee Amendment attached thereto, **HB 526**, with Committee Substitute attached thereto, and **SB 161**, with Committee Amendment and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 521, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.290 is amended to read as follows:

(1) Any real property which has not been listed for taxation, for any year in which it is taxable, by the time the board of assessment appeals completes its work for that year shall be deemed omitted property. Any personal property which has not been listed for taxation, for any year in which it is taxable, by ***April 15 of that year*** [~~the time the assessment is certified by the Revenue Cabinet under the provisions of KRS 133.180~~] shall be deemed omitted property.

(2) All omitted property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty may be collected for the purpose provided in KRS 134.400 and paid into the State Treasury. All other penalties and interest shall be distributed in the same manner as the tax.

Section 2. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment, except such as is subject to assessment by the Revenue Cabinet, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess any omitted real property and shall within ten (10) days from the date the real property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). The Revenue Cabinet shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.

(2) The property valuation administrator may at any time list and assess any real property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). ***If the property valuation administrator fails to assess any omitted real property, the Revenue Cabinet may initiate assessment and collection procedures under the same provisions it uses for omitted personal property.***

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 3. KRS 134.190 is amended to read as follows:

(1) A sheriff who believes, on reasonable grounds, that any person from whom a tax is due is about to conceal or remove his property from the state, county or taxing district shall immediately collect the taxes in the manner provided for the collection of taxes, costs and penalties of delinquent taxpayers.

(2) Anyone holding royalties or payments derived from property shall, if requested by the Revenue Cabinet, sheriff, or collector, remit payment for delinquent taxes due on that property. However, the amount remitted shall not exceed the total amount being held. The delinquent tax payment may be deducted from the royalties or payments owed to the property owner. The property tax bill receipt shall be evidence of payment and authorization for deduction.

Section 4. KRS 134.450 is amended to read as follows:

(1) Any tax claim offered for sale as prescribed in KRS 134.430 and 134.440 shall be sold to any person for cash. If there is more than one (1) willing purchaser at the sale, the one (1) having made the most recent purchase of a tax claim against the same delinquent or the same property shall have preference; if there is no such person the sale shall be made to the person being the first, in the judgment of the sheriff, to offer to pay cash in the full amount of the tax claim. When a sale is made the tax bill shall be known as a certificate of delinquency and the sheriff shall inscribe thereon the date of sale, the sale price, and the name and address of the purchaser, in the place and manner prescribed by the Revenue Cabinet, and the purchaser shall be entitled to a certified copy of the certificate of delinquency.

(2) If no responsible bid in the amount of the tax claim is received, the sheriff shall purchase it for the state, county and taxing districts having an interest in the tax claim. In such case the tax bill shall also be known as a certificate of delinquency, and the sheriff shall inscribe thereon the same information required when one (1) other than the state, county, or taxing district is the purchaser.

(3) The sheriff shall ***file*** [~~return~~] all certificates of delinquency ***in*** [~~to~~] the county ***clerk's office immediately upon completion of the tax sale*** [~~clerk, after he has made his settlement with the state and not later than August 2 of each year,~~] and the clerk shall ***retain*** [~~file~~] them. ***The county clerk shall acknowledge receipt of the certificates by signing a receipt form that has been prepared in a manner prescribed by the Revenue Cabinet.*** If the sheriff fails to ***file*** [~~return~~] the certificates, he shall be liable on his official bond for the aggregate amount of the certificates not returned, but the claim of the purchaser shall not be affected by this neglect. If the sheriff fails to return any certificate, the purchaser may file his certified copy with the clerk, with the same effect as the original.

Section 5. KRS 134.590 is amended to read as follows:

(1) When it appears to the appropriate agency of state government that money has been paid into the State Treasury for ad valorem taxes when no such taxes were in fact due, or for taxes of any kind paid under a statute held unconstitutional, the agency of state government which administers the tax shall refund the money, or cause it to be refunded, to the person who paid the same. This shall not authorize a refund to a person who has made payment of the tax due on any tract of land, unless the entire tax due the state on such land has been paid.

(2) No refund shall be made unless application for same is made in each case within two (2) years from the time payment was made. ***No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, or the correction provisions of KRS 133.110 and 133.130.***

(3) When it has been determined that city, urban-county, county, school district, or special district ad valorem taxes have been paid to a city, urban-county, county, school district, or special district when, in fact, no taxes were due, or the amount paid was in excess of the amount finally determined to be due, the taxes shall be refunded to the person who paid the tax.

(4) Refunds of ad valorem taxes shall be authorized by the mayor or chief finance officer of any city or urban-county government for the city or urban-county government or for any special district for which the city or urban-county government is the levying authority; by the county judge/executive of any county for the county or special district for which the fiscal court is the levying authority; or by the chairman or finance officer of any district board of education.

(5) Upon proper authorization the sheriff or collector shall refund the taxes from current tax collections in his possession. If there are no such funds, refund shall be made by the finance officer of the district. The sheriff or collector shall receive credit for any refunds made by him on his next collection report to the district.

(6) No refund shall be made unless application is made in each case within two (2) years from the date payment was made. If the question of the amount of taxes due is in litigation, the application for refund shall be made within two (2) years from the date the amount due is finally determined. ***No refund for ad valorem taxes, except those held unconstitutional, shall be made unless the taxpayer has properly followed the administrative remedy procedures established through the protest provisions of KRS 131.110, the appeal provisions of KRS 133.120, or the correction provisions of KRS 133.110 and 133.130.***

(7) Notwithstanding other statutory provisions, for property subject to a tax rate that is set each year based on the certified assessment, any loss of ad valorem tax revenue suffered by a taxing district due to the issuance of refunds may be recovered by making an adjustment in the tax rate for the following tax year.

Section 6. KRS 136.1873 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 132.487, trucks, ***trailers,*** tractors, semitrailers, and buses of any person, corporation, partnership, or any other business association whose route or system is partly within this state and partly within another state or states, shall be assessed by the Revenue Cabinet for purposes of taxation as of January 1 each year. [~~Notwithstanding the provisions of KRS 132.200, the trucks, tractors, semitrailers, and buses described in this subsection shall be subject to taxation for state purposes only.~~]

(2) The proportion of miles operated in this state compared to the total miles operated everywhere shall be considered in fixing the value of the property for taxation. Other reasonable evidence shall be considered in fixing the value. ***However, pick-up and delivery vehicles operating from a terminal within this state or vehicles which do not leave this state in the normal course of business shall not be valued on an apportioned basis.***

Section 7. KRS 136.1875 is amended to read as follows:

On or before April 15, 1991, and each year thereafter, each person, corporation, partnership, or other business association owning or operating trucks, tractors, ***trailers,*** semitrailers, and buses whose route or system is partly within this state and partly within another state or states, shall on forms provided by the Revenue Cabinet provide the cabinet with a detailed description of all ***its vehicles operating within this state along with the necessary mileage data to be used in apportioning the value*** [~~the property as well as an estimate of the proportionate use of business situs property on a fleet basis and an estimate of the use of major interstate routes on a fleet basis~~].

Section 8. KRS 136.1877 is amended to read as follows:

(1) The Revenue Cabinet shall immediately, after fixing the assessed value of the trucks, tractors, ***trailers,*** semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the cabinet in the manner outlined in KRS 136.1873 shall have ***forty-five (45)*** [~~thirty (30)~~] days from the date of the cabinet's notice of the tentative assessment in which to protest in the manner provided by KRS 131.110.

(2) The state ***and local*** taxes on the property shall become due ***forty-five (45)*** [~~thirty (30)~~] days from the date of notice and shall be collected directly by the Revenue Cabinet.

(3) The Revenue Cabinet shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(4) The local taxes collected by the Revenue Cabinet shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Revenue Cabinet by any local taxing district under the provisions of KRS 136.180(4) shall be deducted.

The Committee Amendment No. 1 to **HB 521** is as follows:

Amend printed copy of **HB 521** on page 7, line 2, by deleting the word "***or***";

On page 7, line 3, after the statute reference "***133.130***" but before the "." by adding the following language: "***, or other administrative remedy procedures***";

On page 8, line 10, by deleting the word "***or***";

On page 8, line 11, after the statute reference "***133.130***" but before the "." by adding the following language: "***, or other administrative remedy procedures***".

HB 526, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 141.044(2), [~~and~~] 141.235(3), ***and subsection (3) of this section,*** interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5.00).

(3) Effective for refund claims filed on or after July 15, 1992, any overpayment of the tax imposed under KRS Chapter 141, as a result of the carry back of a net operating loss, shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

The Committee Substitute to **HB 526** is as follows:

HB 526, AN ACT relating to revenue taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 141.044(2), [~~and~~] 141.235(3), ***and subsection (3) of this section,*** interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

SB 161, AN ACT relating to public bond issuance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the issuance of the revenue bonds or notes authorized by an appropriations act, the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all these persons, bond counsel, and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this subsection, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

(2) The costs required to be furnished under the provisions of subsection (1) of this section shall not include the payment of wages or expenses to full-time, permanent employees of the Commonwealth of Kentucky.

Section 2. KRS 56.870 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and sale of any definitive bonds or temporary bonds, or the securing of any interim financing through bond anticipation notes, loan agreements, or by any other means, each agency, authority, board, corporation, cabinet, commission, or any other agency or instrumentality of the Commonwealth shall first obtain approval of any such financing from the General Assembly, sitting in regular or special session. ***This*** [~~Such~~] approval shall be evidenced by the adoption by the General Assembly of a specific act or the adoption by the General Assembly of the biennial branch budget bill which shall specify the purposes for ***the*** [~~such~~] financing.

(2) The biennial branch budget bill shall also establish a ceiling for revenue bonds which require a general fund ***or road fund*** appropriation to retire.

(3) The provisions of subsection (1) of this section shall not be applicable to the financing of any project in any case where the project for which financing is proposed is certified by the Governor, as hereinafter provided, to be of such type as to independently produce revenues sufficient to fully meet debt service***, issuance costs, reserve fund requirements, insurance premiums, and any other expenditures necessary for*** [~~on~~] such financing so that no appropriation of state [~~general~~] funds will be required. ***Repayments of revolving funds established with bond issues for which debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures associated with the issuance of the bonds are appropriated by the General Assembly shall not be deemed independently produced revenue. This*** [~~Such~~] certification shall be made in writing by the secretary of the Finance and Administration Cabinet to the statutory head of the issuing agency or authority with a copy to the Governor and the Legislative Research Commission.

The Committee Amendment No. 1 to **SB 161** is as follows:

Amend printed copy of **SB 161** on page 3, after line 21, by inserting the following:

"Section 3. KRS 42.410 is amended to read as follows:

(1) The Office of Financial Management and Economic Analysis established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements;

(b) The maximization of the return on state investments given the cash flow and liquidity requirements;

(c) The coordination and monitoring of cash needs relative to investment and debt activity;

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified;

(e) The evaluation of revenue projections relative to proposed revenue bond issues;

(f) The performance of the cabinet's revenue estimating and economic analysis functions and responsibilities, including, but not limited to, those functions and responsibilities assigned to the cabinet by KRS 48.120;

(g) The responsibility for liaison with the General Assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments;

(h) All other functions of the cabinet relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the State Property and Buildings Commission and the State Investment Commission.

(2) The Office of Financial Management and Economic Analysis shall render monthly written reports concerning the performance of each investment to the State Investment Commission.

(3) The Office of Financial Management and Economic Analysis shall review state appropriation-supported bond issues every six (6) months for possible debt service savings through advanced refundings.

(4) The Office of Financial Management and Economic Analysis shall submit a report within ***forty-five (45) days after the publication of the Comprehensive Annual Financial Report*** [***ninety (90) days of the end of each fiscal year***] to the Legislative Research Commission, for referral to the appropriate committee, indicating the bond issues refunded, original and new interest rates, estimated savings, original and new

amortization schedules, issuance costs, debt reserves, disposition of savings, and information on economic, fiscal and market indicators of the Commonwealth's debt position.

(5) The state debt report shall include, but not be limited to, economic, fiscal and market indicators of debt position as set forth in this section. Indicators shall be presented in tabular and, where appropriate, graphical form. Indicators shall be presented for the fiscal year just ended and, if data is available and except as otherwise noted, for the preceding nine (9) fiscal years.

(6) Economic indicators shall include:

(a) Nonappropriation-supported debt as a percent of state total personal income;

(b) Nonappropriation-supported debt as a percent of total assessed value of property;

(c) Nonappropriation-supported debt per capita;

(d) Appropriation-supported debt as a percent of state total personal income;

(e) Appropriation-supported debt as a percent of total assessed value of property;

(f) Appropriation-supported debt per capita;

(g) Appropriation-supported debt service as a percent of total state personal income;

(h) Appropriation-supported debt service as a percent of total assessed value of property; and

(i) Appropriation-supported debt service per capita.

(7) Fiscal indicators shall be reported separately and in total for the general fund, the road fund, and each restricted fund account from which debt service is expended.

(8) Fiscal indicators shall include:

(a) Annual appropriation-supported debt service as a percent of total revenues; and

(b) Annual appropriation-supported debt service as a percent of available revenues.

(9) Market indicators shall include:

(a) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each nonappropriation-supported bond issued in the fiscal year just ended;

(b) The rating assigned by Moody's Investors Services, Inc., or a comparable rating agency, to each appropriation-supported bond issued in the fiscal year just ended;

(c) A comparison of the difference between the true interest cost of each nonappropriation-supported bond issued and the value of a selected revenue bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue; and

(d) A comparison of the difference between the true interest cost of each appropriation-supported bond issued and the value of a selected municipal bond index, as published by the Bond Buyer Weekly, the Delphis Hanover Corporation, or other comparable service, on a date relevant to the bond issue.

(10) The state debt report shall contain a complete description of the sources of data used to prepare the report. This description shall include, but not be limited to, an enumeration, by fund and restricted fund account, of all debt, debt service and revenue figures; the source and publication date of figures used for state total personal income, total assessed value of property, population and selected bond indexes.

(11) If the sources of data used in a current report differ substantially from those used in the report of the preceding year, the report shall include a detailed explanation of the change. If possible, data presented in the current report for previous years shall be calculated so that, in any one (1) report, indicators for all years are calculated using consistent data categories. The use of any inconsistent data shall be noted and explained.

(12) Nothing in this section shall authorize any act inconsistent with the authority granted the State Investment Commission by KRS 42.500 and 42.525."

The Committee Title Amendment to **SB 161** is as follows:

Amend printed copy of **SB 161** by amending the title to read as follows: "AN ACT relating to debt."

The Committee on Appropriations and Revenue reported **HB 555** and **HB 656** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 555, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Real property" includes all lands within this state and improvements thereon.

(2) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(3) "Taxable fair cash value of shares" shall mean the fair cash value of shares of stock of state banks and trust companies incorporated under the laws of this state and of national banks doing business in this state reduced by the influence of tax exempt United States obligations.

(4) "Tax exempt United States obligations" shall include all obligations of the United States exempt from taxation under 31 USC Section 3124(a) or exempt under the United States Constitution or any federal statute including the obligations of any instrumentality or agency of the United States which are exempt from state or local taxation under the United States Constitution or any statute of the United States.

(5) "Out-of-state business property" means all real and personal property having a taxable situs outside this state owned by a corporation for use in the active conduct of a trade or business.

Section 2. KRS 136.030 is amended to read as follows:

(1) ***(a)*** The individual stockholders of a corporation shall not be required to list their shares for ad valorem taxation so long as the corporation pays taxes to the State of Kentucky on at least seventy-five percent (75%) of its total property, wherever located. Bonds and obligations of the United States of America and its possessions and bonds and obligations of the State of Kentucky, its instrumentalities, and its political subdivisions and their instrumentalities shall not be considered in the computation of the total property of the corporation, wherever located, nor in the computation of the amount of property upon which the corporation pays ad valorem taxes to the State of Kentucky. In order to obtain this exemption, the stockholder shall furnish satisfactory proof to the Revenue Cabinet that at least seventy-five percent (75%) of the total property of the corporation as hereinabove specified is taxed in the State of Kentucky.

(b) A corporation which has its "principal office", as defined in KRS 271B.1-400, in this state during the taxable period may elect, in order to satisfy the provisions of paragraph (a) of this subsection, to include in the computation of the total property of the corporation, wherever located, and in the computation of the amount of property upon which the corporation pays ad valorem taxes to the State of Kentucky, out-of-state business property formerly owned by a subsidiary corporation, the shares of which had been treated as stock of an "affiliated company," as defined in KRS 132.020, held by the electing corporation, when the electing corporation pays an ad valorem tax for state purposes for the taxable period on the value of the out-of-state business property at the rate provided for in KRS 132.020(2).

(2) Every corporation organized under the laws of this state, or doing business in this state, whose stock is liable to assessment and taxation under subsection (1) of this section, except banks, trust companies, or combined banks and trust companies doing business in this state, and domestic life insurance companies, shall by February 15, of each year make a true and correct report to the Revenue Cabinet signed by its president, secretary, treasurer, or other chief officer, giving the names and addresses of residents of this state who hold its shares of stock and outstanding bonds as of January 1 previous thereto, and also the transfer of any of its stocks or bonds by residents of this state to nonresidents within thirty (30) days previous to January 1.

(3) Every broker-dealer or his agent doing business in this state pursuant to KRS Chapter 292, shall on or before March 1, each year, as of the preceding January 1, furnish the Revenue Cabinet the following information:

(a) Name and address of all Kentucky residents whose stocks, bonds, or other securities are held in a name other than that of the actual owner and which are in the possession of or subject to the control of such broker-dealer or his agent, for the benefit of such actual owner. This shall be construed to include all accounts fully paid for if the stock certificates have not been sent to the Kentucky residents;

(b) Name of company by whom stocks, bonds, options, index futures, or other securities were issued;

(c) Number of shares and type of each stock, interest rate, maturity date, par value, and number of bonds held, and sufficient information to measure the quantity of other securities; and

(d) Market value as of the previous January 1.

(4) For purposes of determining the tax status, under subsection (1) of this section, of the shareholders of a holding company with subsidiaries subject to the provisions of KRS 136.120(1), the property of the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be property of the holding company, and ad valorem taxes paid to the State of Kentucky by the subsidiaries subject to the provisions of KRS 136.120(1) shall be considered to be paid by the holding company.

HB 656, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS ***138.351,*** 141.044(2) and 141.235(3), interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5.00).

Section 2. KRS 138.351 is amended to read as follows:

(1) When gasoline or special fuel is sold to a person who shall claim to be entitled to refund under KRS 138.344, the licensed dealer or his duly authorized agent who sells the gasoline or special fuel shall make out in duplicate a gasoline or special fuel refund invoice supplied or approved in writing by the cabinet, which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to the gasoline or special fuel has been assumed by the seller and that the excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline or special fuel so sold, the proposed use for which the gasoline or special fuel is purchased, and other information as the cabinet shall require. The original gasoline or special fuel refund invoice shall be given to the purchaser and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the cabinet an application for refund on forms furnished by the cabinet, stating the quantity of gasoline and special fuel used for the purposes as set out in KRS 138.344. The application shall be accompanied by the original invoice, or certified copy thereof, showing the purchase, and, if required by the cabinet, evidence of payment therefor. When the cabinet is satisfied that a refund is proper, it shall authorize the tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline or special fuel tax receipts as appropriate.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of the person entitled thereto.

(4) Interest on refunds authorized under the provisions of this section shall be paid at the tax interest rate, as defined in KRS 131.010(6), and shall begin to accrue sixty (60) days after the postmark date of the application for refund.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB 28**, by Representative McElroy:

Amend printed copy of **HB 28** on page 2, line 5, after the word "***housing***" but before the period, by adding the following: "***and the providing of services to the low income and homeless***".

On page 9, line 22, after the word "***Cities,***" by adding the following: "***the Kentucky Association of Community Actions,***".

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 162, HB 295, HB 508, HB 504, HB 216, HB 511, HB 589, HB 559** and **HB 345** have been posted for passage in the Orders of the Day for March 5, 1992.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 593**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 610**, by Representative Richards:

Amend printed copy of **HB 610** on page 5, line 7, by placing brackets "□" around and striking-through "fund" the first time it appears;

On page 17, line 5, by inserting the word "***trust***" after "endowment" and by placing brackets "□" around and striking-through "fund"; and

On page 19, line 21, by deleting "***8***" and inserting "***9***" in lieu thereof; and

On page 20, line 15, by inserting the following after the comma ",": "***except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed***".

Orders of the Day

HB 420 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 420** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 3, 1992 roll call on **HB 420** - Appendix.)

HB 420 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 420** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 535 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 535** be passed.

On the roll call the vote was: Yeas 78, Nays 9. (See March 3, 1992 roll call on **HB 535** - Appendix.)

HB 535 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 535** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 561** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 3, 1992 roll call on **HB 561** - Appendix.)

HB 561 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 561** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 563 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 563** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 3, 1992 roll call on **HB 563** - Appendix.)

HB 563 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 563** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 15** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:24 p.m.)

Orders of the Day (Continued)

HCR 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HCR 49** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 3, 1992 roll call on **HCR 49** - Appendix.)

HCR 49 was adopted.

Representative Little moved that the vote by which **HCR 49** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 118 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HCR 118** be adopted.

On the roll call the vote was: Yeas 88, Nays 0. (See March 3, 1992 roll call on **HCR 118** - Appendix.)

HCR 118 was adopted.

Representative Gedling moved that the vote by which **HCR 118** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 521**, by Representative Heleringer:

Amend printed copy of **HB 521** on page 8, lines 12 through 17, by deleting lines 12 through 17 in their entirety.

Orders of the Day (Continued)

HJR 121 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HJR 121** be adopted.

On the roll call the vote was: Yeas 96, Nays 0. (See March 3, 1992 roll call on **HJR 121** - Appendix.)

HJR 121 was adopted.

Representative Ark moved that the vote by which **HJR 121** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 579 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HB 579** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 3, 1992 roll call on **HB 579** - Appendix.)

HB 579 was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 579** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 575, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 575**. Agreed.

Representative R. Smith moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 575**. Agreed.

Representative R. Smith moved that **HB 575**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 3, 1992 roll call on **HB 575** - Appendix.)

HB 575, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 575**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 161**. Agreed.

Representative R. Smith moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 161**. Rejected.

Representative R. Smith moved that **HB 161**, by way of Committee Substitute, be passed.

Representative Sheehan moved that the vote by which Floor Amendment No. 1 to the Committee Substitute to **HB 161** was rejected be reconsidered.

On the roll call the vote was yeas 53—Adkins, Allen, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bryant, Butler, Callahan, Castleman, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Ford, Gedling, Geveden, Gray, Jensen, Johnson, Jones, Kerr, Lewis, Lyne, Maggard, McElroy, Morris, Napier, Nelson, Overstreet, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stumbo, Toby, Todd, Ward, Yates. Nays 35—Ackerson, Altman, Ark, Arnold, Bruce, Casebier, L. Clark, Clarke, Farrow, Freibert, Gee, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Lear, LeMaster, Lile, Little, Long, Mack, Moberly, Noe, Northup, Ridley, Riggs, Scorsone, Stokes, Strong, Turner, Walker, Williams, Zimmerman.

The motion to reconsider the vote on Floor Amendment No. 1 to the Committee Substitute to **HB 161** was adopted.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 161**.

On the roll call the vote was yeas 57—Adkins, Allen, Ballard, Bentley, Blandford, Bowling, Bronger, Bruce, Bryant, Burch, Butler, Callahan, Castleman, P. Clark, Coleman, Collins, Curd, Cyrus, Deskins, Donnermeyer, Farley, Ford, Geveden, Gray, K. Harper, Hatcher, Jensen, Johnson, Jones, Kerr, Lewis, Lyne, Maggard, Mason, McElroy, Morris, Mullinix, Napier, Nelson, Noland, Overstreet, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Riner, Sanders, Sheehan, B. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Ward, Yates. Nays 35-Ackerson, Altman, Ark, Arnold, Barrows, Casebier, L. Clark, Clarke, Farrow, Freibert, Gee, Gregory, Hancock, J. Harper, Heleringer, Hourigan, Keith, Lear, LeMaster, Lile, Little, Long, Mack, Moberly, Noe, Northup, Palumbo, Riggs, Scorsone, Stokes, Turner, Walker, Wayne, Williams, Zimmerman.

Floor Amendment No. 1 to the Committee Substitute to **HB 161** was adopted.

Representative Allen inquired if Representative Sheehan had voted on the prevailing side.

The Speaker ruled yes.

On the roll call on the passage of **HB 161**, by way of Committee Substitute as amended, the vote was: Yeas 52, Nays 43. (See March 3, 1992 roll call on **HB 161** - Appendix.)

HB 161, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 161**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 479, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 479** be passed.

Representative Ward moved the adoption of Floor Amendment No. 3 to **HB 479**.

On the roll call the vote was yeas 29—Ark, Arnold, Barrows, Bowling, Brown, Bruce, Burch, Clarke, Curd, Cyrus, Deskins, Farrow, Geveden, Hatcher, Lear, LeMaster, Long, Mason, Moberly, Morris, Noe, Nunn, Overstreet, Palumbo, Riggs, Scorsone, Stokes, Ward, Zimmerman. Nays 66—Ackerson, Adkins, Allen, Altman, Ballard, Blandford, Bronger, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Donnermeyer, Farley, Ford, Freibert, Gedling, Gee, Gray, Gregory, Hancock, J. Harper, K. Harper, Heleringer, Hourigan, Jensen, Johnson, Jones, Kerr, Lewis, Lile, Lyne, Maggard, McElroy, Mullinix, Napier, Nelson, Noland, Northup, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates.

Floor Amendment No. 3 to **HB 479** was rejected.

On the roll call on passage of **HB 479** the vote was: Yeas 85, Nays 8. (See March 3, 1992 roll call on **HB 479** - Appendix.)

HB 479 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 479** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 203, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 203**. Agreed.

Representative Donnermeyer moved that **HB 203**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 22. (See March 3, 1992 roll call on **HB 203** - Appendix.)

HB 203, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 203**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 3**, **HB 159**, **HB 176**, **HB 232** and **HB 399** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:20 p.m.)

Orders of the Day (Continued)

HB 565, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 565**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 565**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 2 to the Committee Substitute to **HB 565**. Agreed.

Representative Donnermeyer moved that **HB 565**, by way of Committee Substitute as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 565**.

On the roll call the vote was yeas 39—Ark, Barrows, Bowling, Brown, Bruce, Burch, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Farrow, Geveden, Gray, Hatcher, Jones, Keith, Lear, LeMaster, Long, Mack, Mason, Moberly, Morris, Mullinix, Noe, Nunn, Overstreet, Palumbo, Richardson, Ridley, Riggs, Scorsone, Stokes, Stumbo, Ward, Zimmerman. Nays 54—Ackerson, Adkins, Allen, Altman, Ballard, Blandford, Bronger, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Donnermeyer, Farley, Ford, Freibert, Gedling, Gee, Gregory, J. Harper, K. Harper, Heleringer, Hourigan, Johnson, Kerr, Lewis, Lile, Lyne, Maggard, McElroy, Napier, Noland, Northup, Pritchett, Ravenscraft, Reinhardt, Richards, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates.

Floor Amendment No. 3 to the Committee Substitute to **HB 565** was rejected.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 565**. Rejected.

Representative Geveden moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 565**.

On the roll call the vote was yeas 35—Ark, Barrows, Bowling, Brown, Bruce, Burch, Clarke, Crupper, Curd, Cyrus, Deskins, Farrow, Freibert, Geveden, Jones, Keith, Lear, LeMaster, Little, Long, Mack, Mason, Moberly, Morris, Mullinix, Noe, Nunn, Overstreet, Palumbo, Ridley, Riggs, Scorsone, Stokes, Ward, Zimmerman. Nays 57—Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Blandford, Bronger, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Donnermeyer, Farley, Ford, Gedling, Gee, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Kerr, Lewis, Lyne, Maggard, McElroy, Napier, Noland, Northup, Rapier, Ravenscraft, Reinhardt, Richards, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates.

Floor Amendment No. 2 to the Committee Substitute to **HB 565** was rejected.

Representative Jones moved that **HB 565** be laid on the Clerk's desk.

On the roll call the vote was yeas 35—Ark, Ballard, Barrows, Bowling, Burch, Crupper, Curd, Cyrus, Deskins, Farrow, Geveden, Gray, Hatcher, Jones, Lear, LeMaster, Little, Long, Mack, Mason, Moberly, Mullinix, Nelson, Noe, Nunn, Overstreet, Palumbo, Pritchett, Ridley, Riggs, Scorsone, Stokes, Stumbo, Ward, Zimmerman. Nays 60—Ackerson, Adkins, Allen, Altman, Arnold, Blandford, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Donnermeyer, Farley, Ford, Freibert, Gedling, Gee, Hancock, J. Harper, K. Harper, Heleringer, Hourigan, Jensen, Johnson, Keith, Kerr, Lewis, Lile, Lyne, Maggard, McElroy, Morris, Napier, Noland, Northup, Rapier, Ravenscraft, Reinhardt, Richards, Riner, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates.

The motion that **HB 565** be laid on the Clerk's desk was rejected.

On the roll call on the passage of **HB 565** by way of Committee Substitute as amended, the vote was: Yeas 62, Nays 37. (See March 3, 1992 roll call on **HB 565** - Appendix.)

HB 565, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 565**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 772** and **HB 738**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HB 793, by Representatives Gedling and Crupper: AN ACT relating to tobacco.

HB 794, by Representative Reinhardt: AN ACT relating to Workers' Compensation.

HB 795, by Representatives P. Clark and Butler: AN ACT relating to collective bargaining for police officers.

HB 796, by Representatives Farley, Cyrus and Adkins: AN ACT relating to the Kentucky steel industry.

HB 797, by Representative Jones: AN ACT relating to the Kentucky Public Employees Deferred Compensation System.

HB 798, by Representative Burch: AN ACT relating to children.

HB 799, by Representative Burch: AN ACT relating to children.

HB 800, by Representative LeMaster: AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

HB 801, by Representative Coleman: AN ACT relating to commercial feed.

HB 802, by Representatives Walker and Kerr: AN ACT relating to crimes and punishments.

HB 803, by Representative Pritchett: AN ACT relating to underground utility damage prevention.

HB 804, by Representative B. Smith: AN ACT relating to basic hospitalization insurance.

HB 805, by Representative Wayne: AN ACT relating to claims upon the treasury.

HB 806, by Representative Wayne: AN ACT relating to license plates.

HB 807, by Representatives Noe, Geveden, Bowling and Burch: AN ACT relating to the school breakfast program.

HB 808, by Representative Ridley: AN ACT relating to school guidance counselors.

HB 809, by Representative Long: AN ACT relating to the Commonwealth of Kentucky's procurement of architectural and engineering services.

HB 810, by Representatives Bryant, J. Harper, Stokes and Jensen: AN ACT proposing to create Section 145A of the Constitution of Kentucky relating to a limitation on the number of consecutive terms that may be served by United States Senators and Representatives elected from Kentucky.

HB 811, by Representatives Arnold and McElroy: AN ACT relating to sheep.

HB 812, by Representatives Morris and Bruce: AN ACT relating to an economic development program for Kentucky industries.

HB 813, by Representative Cyrus: AN ACT relating to retirement.

HB 814, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 815, by Representative Cyrus: AN ACT relating to workers' compensation.

HB 816, by Representative Jones: AN ACT relating to retirement.

HB 817, by Representative R. Smith: AN ACT relating to oil and gas operations on real estate where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface.

HB 818, by Representative R. Smith: AN ACT relating to utilities.

HB 819, by Representative R. Smith: AN ACT relating to administrative regulations.

HB 820, by Representative R. Smith: AN ACT relating to administrative regulations.

HB 821, by Representative Lear: AN ACT relating to science and technology workforce development.

HB 822, by Representative Walker: AN ACT relating to the State Police.

HB 823, by Representative Moberly: AN ACT relating to the purchase of military service credit in the Teachers' Retirement System.

HR 156, by Representative Jones: A RESOLUTION designating Paducah, Kentucky as "Quilt City, U.S.A."

HR 157, by Representative Burch: A RESOLUTION in loving memory and honor of Charles E. Schmidt, Jr.

HCR 158, by Representatives Geveden, Noe, Bowling and Strong: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study on reports mandated by statute.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 732**

Natural Resources and Environmental Protection: **HB 540, SB 112, SB 144, SB 189, SB 191**

Banking and Insurance: **HB 415, HB 611**

State Government: **SB 63, SCR 65, SB 114, HCR 129, HB 470, HB 652, HB 727, HB 684, HB 685**

Business Organizations and Professions: **HB 682, HB 769**

Counties and Special Districts: **HB 640, HB 701, HB 348, HB 392, HB 713, HB 83, HB 765, SB 28, SB 54, SB 122**

Elections and Constitutional Amendments: **HB 206, HB 246, HB 318**

Health and Welfare: **HB 709, HB 777, HB 528**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Labor and Industry: **HB 471**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 44, HB 115**, with Committee Substitute attached thereto, **HB 481**, with Committee Substitute attached thereto, and **HB 484**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 44, AN ACT relating to gambling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" — A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. ***A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.***

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device,including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The ***ultimate winner is*** [~~winning chances are~~] to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" — A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

(10) "Charitable gaming" means games of chance, including bingo, operated by charitable or religious organizations or institutions, or fraternal societies, or associations, operating under the lodge system, the net earnings of which are devoted exclusively to religious, scientific, literary, educational, or fraternal purposes. In order to assume a charitable gaming status, the charitable or religious organization or institution, or fraternal society and the gaming activity conducted thereby shall conform to the requirements of KRS 528.130 and 528.140.

Section 2. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, any licensee or any of his clerks, servants, agents or employees shall have been convicted of two (2) violations of the terms and provisions of KRS Chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employees shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any administrative regulations of the revenue cabinet made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility. This section shall not apply to ***contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to*** the sale of lottery tickets sold under the provisions of KRS Chapter 154A.

(8) Conviction of the licensee, his agents, servants, or employees for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

HB 115, AN ACT relating to domestic violence and abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, ***sexual abuse,*** assault, or the infliction of fear of imminent physical injury, serious physical injury, ***sexual abuse,*** or assault between family members; and

(2) "Family member" means a spouse, including a former spouse, ***a*** parent, a member of an unmarried couple which ***allegedly*** has a child in common, ***a member of an unmarried couple who are living together or have formerly lived together, a*** child, ***a*** stepchild, or any other person related by consanguinity or affinity within the second degree.

Section 2. KRS 403.725 is amended to read as follows:

(1) Any family member who ***is a resident of this state or has fled to this state to escape domestic violence and abuse*** [~~has been a resident of this state for at least thirty (30) days~~] may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse, the petition may be filed ***and proceedings held*** in the District Court in the county of his usual residence or in the District Court in the county of current residence.

(2) A petition filed pursuant to subsection (1) of this section may be filed by the family member seeking relief or by an adult family member on behalf of a minor family member.

Section 3. KRS 403.730 is amended to read as follows:

(1) A petition filed pursuant to KRS 403.725 shall be verified and shall contain:

(a) The name, age, address, occupation, and residence of the petitioner;

(b) The name, age, address, occupation, and residence of the person or persons who have engaged in the alleged act or acts of domestic violence and abuse;

(c) The facts and circumstances which constituted the alleged domestic violence and abuse;

(d) The date and place of the marriage of the parties, if applicable; and

(e) The names, ages, and addresses of the parties' minor children, if applicable.

(2) The petition shall be filed on forms prescribed by the administrative office of the courts and provided to the person seeking relief under KRS 403.715 to 403.785 by the circuit clerk ***or to another individual authorized by the court to provide and verify petitions in emergency situations, such as pre-trial officers, law enforcement officers, and county or commonwealth attorneys. All petitions requested, completed, and signed by persons seeking protection under the provisions of KRS 403.715 to 403.785 shall be accepted and filed.***

(3) Notwithstanding any provision of law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under KRS 403.725.

Section 4. KRS 403.735 is amended to read as follows:

(1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after review of the petition and determining that domestic violence and abuse exists, without a jury, shall utilize one ***(1)*** of the alternatives provided for in KRS 403.740 or 403.745.

(2) A court may issue a mutual restraining order only if a cross petition is filed by the respondent and the court, following a hearing, has made specific findings based on a preponderance of the evidence, that an act or acts of domestic violence and abuse have occurred and may again occur. The court shall then provide a detailed order, sufficiently specific to apprise any law enforcement officer as to which party has violated the order if the parties are in or appear to be in violation of the order.

(3) Written procedures shall be established by each court to ensure twenty-four (24) hour accessibility to emergency protective orders. These procedures shall be reviewed and approved annually by the Kentucky Supreme Court.

(4) If an emergency protective order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

Section 5. KRS 403.740 is amended to read as follows:

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

(a) ***Restraining the adverse party from any contact with the petitioner except as directed by the court;***

(b) Restraining the adverse party from committing further acts of domestic violence and abuse; [~~or~~]

(c)[~~(b)~~] Restraining the adverse party from disposing of or damaging any of the property of the parties; [~~or~~]

(d)[~~(c)~~] Directing the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, grant temporary custody; or

(f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(3) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. ***An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.***

(4) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of rule 45.03 of the Rules of Civil Procedure. ***No service fee shall be assessed to the petitioner.***

Section 6. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds[~~,~~] from a preponderance of the evidence[~~,~~] that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) ***Restrain the adverse party from any contact with the petitioner except as directed by the court;***

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c)[~~(b)~~] Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d)[~~(c)~~] Direct the adverse party to vacate the residence shared by the parties to the action;

(e)[~~(d)~~] Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420 award temporary custody;

(f)[~~(e)~~] Utilizing the criteria set forth in KRS ***403.211, 403.212 and 403.213*** [~~403.200 and the child support guidelines set forth in KRS 403.212~~], award temporary support;

(g)[~~(f)~~] Direct that either or both parties receive counseling services available in the community; or

(h)[~~(g)~~] Enter [~~such~~] other orders [~~as~~] the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed one (1) year ***and may be reissued on an annual basis.***

(3) ***Upon proper filing of a motion, either party may seek to amend a domestic violence order.***

(4) When temporary child support is granted under the provisions of this Act, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.710 et. seq.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 7. KRS 403.755 is amended to read as follows:

(1) Upon the issuance of an order authorized by KRS 403.740 or 403.750, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.

(2) Orders issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, shall be enforced in any county of the Commonwealth. Officers acting in good faith shall be immune from criminal and civil liability.

Section 8. KRS 403.760 is amended to read as follows:

(1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of ***the order*** [~~same~~], shall constitute contempt of court.

(2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, after service of the order, shall arrest the respondent without a warrant for contempt of court.

(3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.

Section 9. KRS 403.765 is amended to read as follows:

If, following the entry of an order authorized by KRS 403.740 or 403.750, the petitioner or the adverse party initiate an action in the Circuit Court under the provisions of this chapter, ***the party filing the petition shall certify the existence and status of any domestic violence protective orders*** [~~the orders of the circuit court pertaining to the same subject matter shall, upon service of same, take precedence over orders issued pursuant to KRS 403.740 or 403.750~~]. ***Unless the Circuit Court issues an order pertaining to the same subject matter of any existing domestic violence order,*** orders of the District Court shall remain in effect and shall be enforced in either District or Circuit Court.

Section 10. KRS 403.770 is amended to read as follows:

(1) The court, when issuing an emergency protective order, or when causing the issuance of a summons, shall order the omission or deletion of the petitioner's address, ***the respondent's address, and the address of any minor children*** from any documents to be made available to the public, or to the person or persons who engaged in the alleged act or acts of domestic violence and abuse.

(2) ***The circuit clerk, in cooperation with the court shall cause a copy of each summons or order issued pursuant to KRS 403.740, 403.745, or 403.750 to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its issuance, to the appropriate agency designated for entry of domestic violence records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***

(3) Each agency designated for entry of summonses and orders issued pursuant to the provisions of KRS 403.740, 403.745, or 403.750 into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.

(4) A copy of the petition and each order issued pursuant to KRS 403.740 and 403.750 shall, be certified and forwarded by the circuit clerk, within twenty-four (24) hours to the circuit clerk in the usual county of residence and county where the petitioner and minor children, if any, currently reside. [~~A copy of each order issued pursuant to KRS 403.740 or 403.750 shall be forwarded by the circuit clerk, within twenty-four (24) hours of its issuance to all law enforcement agencies with jurisdiction in the locale of the residence of the petitioner. Any order superseding or modifying an earlier order shall likewise be forwarded by the circuit clerk to the appropriate law enforcement agency.~~

~~(3) Each law enforcement agency shall maintain within its official records information as to the existence and current status of any order issued pursuant to the provisions of KRS 403.740 or 403.750, copies of which have been forwarded to the law enforcement agency in accordance with subsection (2) of this section.~~

~~(4) The official records maintained by law enforcement agencies in accordance with the provisions of subsection (3) of this section shall be confidential.~~]

Section 11. KRS 403.785 is amended to read as follows:

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Human Resources, ***Department for Social Services,*** within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) Law enforcement agencies shall provide all officers employed by them with a Kentucky law enforcement council approved education and training program designed to inform the officers of:

(a) The problems of domestic violence and abuse;

(b) The manner with which to deal with domestic violence and abuse;

(c) The services and facilities available to victims of domestic violence and abuse; and

(d) The provisions of KRS 403.715 to 403.785.

(3) ***When*** [~~Whenever~~] a law enforcement officer has reason to suspect that a family or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

(4) Each law enforcement agency shall establish written policy and procedures for complying with provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Human Resources, Department for Social Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records.

Section 12. KRS 403.745 is amended to read as follows:

(1) If, upon review of the petition[~~,~~] as provided for in KRS 403.735, the court determines that the allegations contained therein do not indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall fix a date, time, and place for a hearing and shall cause a summons to be issued for the adverse party.

(2) The hearing shall be fixed not later than fourteen (14) days following the issuance of the summons.

(3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the petition shall be personally served upon the adverse party. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure.

(4) A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.

Section 13. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) ***(a)*** Any peace officer may arrest ***a person*** without warrant when ***the peace officer*** [~~he~~] has probable cause to believe that if the person is not arrested ***the person*** [~~he~~] will present a danger or threat of danger to others if not immediately restrained and in addition the ***peace officer*** [~~he~~] has probable cause for believing

that ***the*** [~~said~~] person has intentionally or wantonly caused physical injury to ***a family member*** [~~his spouse, former spouse, parent, grandparent, child, stepchild, or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody~~].

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a member of an unmarried couple which allegedly has a child in common, a member of an unmarried couple who are living together or have formerly lived together, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(3) For purposes of subsection (2) of this section, a "peace officer" is a full-time sworn officer of the Kentucky State Police, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

The Committee Substitute to **HB 115** is as follows:

HB 115, AN ACT relating to domestic violence and abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.715 is amended to read as follows:

KRS 403.715 to 403.785 shall be interpreted by the courts of the Commonwealth of Kentucky to effectuate the following express legislative purposes:

(1) To allow persons who are victims of domestic violence and abuse to obtain effective, short-term protection against further violence and abuse in order that their lives will be as secure and as uninterrupted as possible;

(2) To expand the ability of law enforcement officers to effectively respond to situations involving domestic violence and abuse so as to prevent further such incidents and to provide assistance to the victims; [~~and~~]

(3) ***To provide peace officers with the authority to immediately apprehend and charge for violation of a protective order any person whom the officer has probable cause to believe has violated an order of protection issued under KRS 403.740 or 403.750 and to provide courts with the authority to conduct contempt of court proceedings for these violations;***

(4) To provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the incidence and causes of such violence and abuse***; and***

(5) Nothing in KRS 403.715 to 403.785 shall be interpreted to repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209 or 620.

Section 2. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, ***sexual abuse,*** assault, or the infliction of fear of imminent physical injury, serious physical injury, ***sexual abuse,*** or assault between family members ***or members of an unmarried couple***; and

(2) "Family member" means a spouse, including a former spouse, ***a*** parent, a [~~member of an unmarried couple which has a child in common,~~] child, ***a*** stepchild, or any other person related by consanguinity or affinity within the second degree.

(3) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

Section 3. KRS 403.725 is amended to read as follows:

(1) Any family member ***or member of an unmarried couple*** who ***is a resident of this state or has fled to this state to escape domestic violence and abuse*** [~~has been a resident of this state for at least thirty (30) days~~] may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse, the petition may be filed ***and proceedings held*** in the District Court in the county of his usual residence or in the District Court in the county of current residence.

(2) ***Any family member or any member of an unmarried couple as those terms are defined in KRS 403.720, may file for and receive protection under KRS 403.715 to 403.785, notwithstanding the existence of or intent to file an action in the Circuit Court by either party under the provisions of this chapter.***

(3) A petition filed pursuant to subsection (1) of this section may be filed by the family member ***or member of an unmarried couple*** seeking relief or by an adult family member ***or member of an unmarried couple*** on behalf of a minor family member.

Section 4. KRS 403.730 is amended to read as follows:

(1) A petition filed pursuant to KRS 403.725 shall be verified and shall contain:

(a) The name, age, address, occupation, and residence of the petitioner;

(b) The name, age, address, occupation, and residence of the person or persons who have engaged in the alleged act or acts of domestic violence and abuse;

(c) The facts and circumstances which constituted the alleged domestic violence and abuse;

(d) The date and place of the marriage of the parties, if applicable; and

(e) The names, ages, and addresses of the parties' minor children, if applicable.

(2) The petition shall be filed on forms prescribed by the administrative office of the courts and provided to the person seeking relief under KRS 403.715 to 403.785 by the circuit clerk ***or to another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, and county or Commonwealth's attorneys. All petitions requested, completed, and signed by persons seeking protection under the provisions of KRS 403.715 to 403.785 shall be accepted and filed.***

(3) Notwithstanding any provision of law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under KRS 403.725.

Section 5. KRS 403.735 is amended to read as follows:

(1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after review of the petition and determining that domestic violence and abuse exists, without a jury, shall utilize one ***(1)*** of the alternatives provided for in KRS 403.740 or 403.745.

(2) A court may issue mutual protective orders only if a separate petition is filed by the respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide orders, sufficiently specific to apprise any peace officer as to which party has violated the order if there is probable cause to believe a violation of the order has occurred.

(3) Written procedures shall be established by each court by July 30, 1992 to ensure twenty-four (24) hour accessibility to emergency protective orders. These procedures shall be reviewed and approved annually thereafter by the Kentucky Supreme Court.

(4) If an emergency protective order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

(5) An order of protection issued under the provisions of KRS 403.715 to 403.785 shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

Section 6. KRS 403.740 is amended to read as follows:

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

(a) ***Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;***

(b) Restraining the adverse party from committing further acts of domestic violence and abuse; [~~or~~]

(c)[~~(b)~~] Restraining the adverse party from disposing of or damaging any of the property of the parties; [~~or~~]

(d)[~~(c)~~] Directing the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, grant temporary custody; or

(f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(3) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. ***An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.***

(4) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of rule 45.03 of the Rules of Civil Procedure. ***No service fee shall be assessed to the petitioner.***

Section 7. KRS 403.745 is amended to read as follows:

(1) If, upon review of the petition[~~,~~] as provided for in KRS 403.735, the court determines that the allegations contained therein do not indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall fix a date, time, and place for a hearing and shall cause a summons to be issued for the adverse party.

(2) The hearing shall be fixed not later than fourteen (14) days following the issuance of the summons.

(3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the petition shall be personally served upon the adverse party. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure.

(4) A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.

Section 8. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds[~~,~~] from a preponderance of the evidence[~~,~~] that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) ***Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;***

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c)[~~(b)~~] Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d)[~~(c)~~] Direct the adverse party to vacate the residence shared by the parties to the action;

(e)[~~(d)~~] Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420 award temporary custody;

(f)[~~(e)~~] Utilizing the criteria set forth in KRS ***403.211, 403.212 and 403.213*** [~~403.200 and the child support guidelines set forth in KRS 403.212~~], award temporary support;

(g)[~~(f)~~] Direct that either or both parties receive counseling services available in the community; or

(h)[~~(g)~~] Enter [~~such~~] other orders [~~as~~] the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed one (1) year ***and may be reissued on an annual basis.***

(3) ***Upon proper filing of a motion, either party may seek to amend a domestic violence order.***

(4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 9. KRS 403.755 is amended to read as follows:

(1) Upon the issuance of an order authorized by KRS 403.740 or 403.750, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.

(2) Orders issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, shall be enforced in any county of the Commonwealth. Officers acting in good faith shall be immune from criminal and civil liability.

Section 10. KRS 403.760 is amended to read as follows:

(1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of ***the order on the respondent, or notice of the order to the respondent*** [~~same~~], shall constitute contempt of court.

(2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, and after service on the respondent or notice to the respondent as provided under Section 5 of this Act, shall arrest the respondent without a warrant for violation of a protective order pursuant to KRS 500.020, 403.715, and 403.740. Following a hearing the court may punish the violation of a protective order as contempt of court.

(3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.

(4) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses.

Section 11. KRS 403.765 is amended to read as follows:

If, following the entry of an order authorized by KRS 403.740 or 403.750, the petitioner or the adverse party initiate an action in the Circuit Court under the provisions of this chapter, ***the party filing the petition shall certify the existence and status of any domestic violence protective orders*** [~~the orders of the circuit court pertaining to the same subject matter shall, upon service of same, take precedence over orders issued pursuant to KRS 403.740 or 403.750~~]. ***Unless the Circuit Court issues and serves an order pertaining to the same subject matter of any existing domestic violence order,*** orders of the District Court shall remain in effect and shall be enforced in either District or Circuit Court.

Section 12. KRS 403.770 is amended to read as follows:

(1) The court, when issuing an emergency protective order, or when causing the issuance of a summons, shall order the omission or deletion of the petitioner's address, ***and the address of any minor children*** from any documents to be made available to the public, or to the person or persons who engaged in the alleged act or acts of domestic violence and abuse.

(2) ***The circuit clerk, in cooperation with the court shall cause a copy of each summons or order issued pursuant to KRS 403.740, 403.745, or 403.750 to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of domestic violence records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***

(3) Each agency designated for entry of summonses and orders issued pursuant to the provisions of KRS 403.740, 403.745, or 403.750 into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.

(4) A copy of the petition and each order issued pursuant to KRS 403.740 and 403.750 shall, be certified and forwarded by the circuit clerk, within twenty-four (24) hours to the circuit clerk in the usual county of residence and county where the petitioner and minor children, if any, currently reside. [~~A copy of each order issued pursuant to KRS 403.740 or 403.750 shall be forwarded by the circuit clerk, within twenty-four (24) hours of its issuance to all law enforcement agencies with jurisdiction in the locale of the residence of the petitioner. Any order superseding or modifying an earlier order shall likewise be forwarded by the circuit clerk to the appropriate law enforcement agency.~~

~~(3) Each law enforcement agency shall maintain within its official records information as to the existence and current status of any order issued pursuant to the provisions of KRS 403.740 or 403.750, copies of which have been forwarded to the law enforcement agency in accordance with subsection (2) of this section.~~

~~(4) The official records maintained by law enforcement agencies in accordance with the provisions of subsection (3) of this section shall be confidential.~~]

Section 13. KRS 403.785 is amended to read as follows:

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Human Resources, ***Department for Social Services,*** within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) Law enforcement agencies shall provide all officers employed by them with a Kentucky law enforcement council approved education and training program designed to inform the officers of:

(a) The problems of domestic violence and abuse;

(b) The manner with which to deal with domestic violence and abuse;

(c) The services and facilities available to victims of domestic violence and abuse; and

(d) The provisions of KRS 403.715 to 403.785.

(3) ***When*** [~~Whenever~~] a law enforcement officer has reason to suspect that a family ***member, member of an unmarried couple,*** or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

(4) Each law enforcement agency shall establish written policy and procedures for complying with provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Human Resources, Department for Social Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records.

Section 14. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) ***(a)*** Any peace officer may arrest ***a person*** without warrant when ***the peace officer*** [~~he~~] has probable cause to believe that if the person is not arrested ***the person*** [~~he~~] will present a danger or threat of danger to others if not immediately restrained and in addition the ***peace officer*** [~~he~~] has probable cause for believing that ***the*** [~~said~~] person has intentionally or wantonly caused physical injury to ***a family member or member of an unmarried couple*** [~~his spouse, former spouse, parent, grandparent, child, stepchild, or, if said person is a party of an unmarried couple which has a child in common, the other party of the couple. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody~~].

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is a full-time sworn officer of the Kentucky State Police, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

HB 481, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "HIV Test" means a test of an individual for presence of human immunodeficiency virus (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating HIV infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of HIV virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of HIV testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, the sentencing court shall, upon request of the victim or parent or guardian of a victim, order the defendant to submit to an HIV test, which shall be performed by a licensed medical laboratory.

(4) The result of any HIV test ordered pursuant to this section shall not be a public record and shall be available only to the victim, the parent, or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the attending physician of the victim, the Cabinet for Human Resources, the Department of Corrections, and the defendant.

(5) The cost of testing under this section shall be paid by the defendant tested.

(6) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to an HIV test.

The Committee Substitute to **HB 481** is as follows:

HB 481, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Human Resources.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Human Resources to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing and to any other agency as directed pursuant to KRS Chapter 214.

(c) In addition, the Cabinet for Human Resources shall provided to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Human Resources shall provide counselling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

SECTION 2. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

(1) A juvenile session of a District Court shall comply with the provisions of Section 1 of this Act when a child is accused of commission of a public offense as described therein.

(2) A juvenile session of a District Court shall order a child who is adjudicated a public offender to submit to a human immunodeficiency virus test pursuant to Section 1 of this Act if the offense is one described therein.

(3) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Human Resources to the victim, the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the child adjudicated as a public offender and his parents or guardian, and as otherwise directed pursuant to KRS Chapter 214.

HB 484, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of violating graves when he intentionally:

(a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or

(b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or

(c) By digging into or plowing over or removing any ornament, shrubbery, or flower placed upon any grave or lot.

(2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.

(3) Violating graves is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

Section 2. KRS 525.110 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the second degree when he intentionally:

(a) Desecrates any public monument or object or place of worship [~~or burial~~]; or

(b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

The Committee Substitute to **HB 484** is as follows:

HB 484, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of violating graves when he intentionally:

(a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or

(b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or

(c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.

(2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.

(3) Violating graves is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

Section 2. KRS 525.110 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects in the second degree when he intentionally:

(a) Desecrates any public monument or object or place of worship [~~or burial~~]; or

(b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects in the second degree is a Class A misdemeanor.

The Committee on Business Organizations and Professions reported **HB 416**, with Committee Substitute attached thereto, **HB 703**, with Committee Amendment attached thereto, **SB 117** and **SB 119** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 416, AN ACT relating to tattooing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in, offer to engage in, or carry on any business of tattooing for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing.

(2) No person shall engage in the practice of tattooing for remuneration unless there is present, at all times during the tattoo procedure, a registered nurse duly licensed to practice in the Commonwealth of Kentucky pursuant to KRS Chapter 314.

Section 2. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100), and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or confined in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both. Each subsequent violation of any provision of KRS 211.182 shall constitute a felon and be punishable by a fine of not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not less than one (1) nor more than three (3) years, or both.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Human Resources to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or confined for not less than thirty (30) days nor more than twelve (12) months, or both. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Human Resources adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be subject to a fine of one thousand dollars ($1,000) for each violation.

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be subject to a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(8) The penalties provided in subsections (6) and (7) of this section, are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(9) Any person who violates any provisions of Section 1 of this Act shall be fined not less than ten dollars ($10) nor more that one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

The Committee Substitute to **HB 416** is as follows:

HB 416, AN ACT relating to tattooing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in, offer to engage in, or carry on any business of tattooing of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing.

(2) No person shall engage in the practice of tattooing of humans for remuneration unless they employ, at all times during the tattoo procedure, a registered nurse duly licensed to practice in the Commonwealth of Kentucky pursuant to KRS Chapter 314.

Section 2. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100), and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or confined in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both. Each subsequent violation of any provision of KRS 211.182 shall constitute a felony and be punishable by a fine of not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not less than one (1) nor more than three (3) years, or both.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Human Resources to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or confined for not less than thirty (30) days nor more than twelve (12) months, or both. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Human Resources adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be subject to a fine of one thousand dollars ($1,000) for each violation.

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be subject to a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(8) The penalties provided in subsections (6) and (7) of this section, are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(9) Any person who violates any provisions of Section 1 of this Act shall be fined not less than ten dollars ($10) nor more that one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

HB 703, AN ACT relating to catering licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "caterer" means a corporation partnership, or individual which operates the business of a food service professional by preparing food and beverages in a licensed and inspected commissary, transporting the food and beverages to a location selected by the customer away from the commissary premises, and serving the food and beverages to the customer's guests.

(2) A caterer's license may be issued as a supplementary license to a caterer that holds a retail package liquor license or a distilled spirits and wine by the drink retail license.

(3) The caterer's license may be issued to a caterer, that does not meet the requirements of subsection (2) of this section, for the premises that serves as the caterer's commissary. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjuction with a catered function.

(4) The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;

(b) Transport, sell, serve, and deliver alcoholic beverages by the drink at locations in wet territory away from the licensed premises in conjunction with the catering of food and beverages for a customer and his guests. Distilled spirits and wine may may only be transported, sold, served, or delivered in cities of the first, second, or third classes, counties containing cities of the first, second, or third classes, and cities of the fourth class in which the sale of distilled spirits and wine has been adopted pursuant to KRS 242.127;

(c) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a function catered by the licensee; and

(d) Receive payment for alcoholic beverages served at a function on a by the drink or by the function basis. The caterer may bill the host for by the function sales of alcoholic beverages in the usual course of the caterer's business.

(5) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licensees or special temporary licenses have been issued.

(6) A caterer licensee shall not cater on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.

(7) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(8) The caterer licensee shall post a copy of his caterer's license at the location of the function for which alcoholic beverages are catered.

(9) The name and license numbers of the caterer shall be painted, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

(10) All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section, shall apply to the caterer licensee.

(11) The caterer licensee shall submit a list of functions catered or to be catered including location, host, date, and time upon request of the board.

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$1,500.00
(2)	Rectifier's license, per annum	$1,500.00
(3)	Blender's license, per annum	$1,500.00
(4)	Vintner's license, per annum	$ 500.00
(5)	Small winery license, per annum	$ 25.00
(a)	Small winery off-premises retail license, per annum	$ 25.00
(6)	Wholesaler's license, per annum	$1,500.00
(7)	Retail package license, per annum:	
(a)	In counties containing cities of the first class	$ 600.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(e)	In all other counties	$ 200.00
(8)	Retail drink license, per annum:	
(a)	In counties containing cities of the first class	$ 800.00
(b)	In counties containing cities of the second class	$ 500.00
(c)	In counties containing cities of the third class	$ 400.00
(d)	In counties containing cities of the fourth class	$ 300.00
(9)	Transporter's license, per annum	$ 25.00
(10)	Dining car license, per annum	$ 50.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$ 25.00
(12)	Special industrial alcohol license, per annum	$ 25.00
(13)	Special nonindustrial alcohol license, per annum	$ 25.00
(14)	Special agent's or solicitor's license, per annum	$ 20.00

(15) Special storage or warehouse license, per annum	$ 100.00
(16) Special temporary license, per month or part of month, one sixth (1/6) of the fees enumerated in subsection (7).	
(17) Special private club license, per annum	$ 150.00
(18) Special Sunday retail drink license	$ 300.00
(19) Nonresident, special agent or solicitor's license, per annum	$ 20.00
(20) Transport permit, nonresident license, per annum	$ 25.00
(21) Through transporter's license, per annum	$ 25.00
(22) Freight forwarder's license, per annum	$ 25.00
(23) Supplemental bar license:	
(a) In counties containing cities of the first class	$ 800.00
(b) In counties containing cities of the second class	$ 500.00
(c) In counties containing cities of the third class	$ 400.00
(24) Restaurant wine license, per annum:	
(a) New applicants	$ 300.00
(b) Renewals	$ 200.00
(25) Farm winery license, per annum	$ 25.00
(a) Farm winery retail outlet license	$ 5.00
(26) Special temporary wine license	$ 25.00
(27) ***Caterer's license, per annum***	***$ 400.00***

(28) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by ***administrative*** regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

The Committee Amendment No. 1 to **HB 703** is as follows:

Amend printed copy of **HB 703** on page 3, line 3, by inserting "***(2)***" after "***244.290***".

SB 117, AN ACT relating to liens of dry cleaners, launderers, or tailors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.300 is amended to read as follows:

(1) Any person who cleans, presses, glazes, launders, alters or repairs any wearing apparel or household goods shall have a lien on ***the*** [~~such~~] article remaining in his possession to secure the reasonable or agreed charge for the service. If the charge is not paid within ninety days, the article may be sold to pay the charges and costs of notice, after notice has been given the ***customer*** [~~owner~~] of the time and place of sale.

(2) ***The notice of time and place of sale, when given, shall be by registered letter mailed to the last known address of the customer. The person sending the letter may do so anytime after an article has been held for at least sixty (60) days, and the notice by registered letter shall specify that the article may be sold unless it is redeemed within thirty (30) days from the date of the letter.***

(3) Any article, which is left with any person who cleans, presses, glazes, launders, alters, or repairs any wearing apparel or other household goods and which is not redeemed by the customer within one hundred eighty (180) days shall be considered abandoned. It may, without any liability or responsibility for the article on the part of the person holding it and without notification to the customer, be sold or otherwise disposed of.

(4) The foregoing provisions shall not apply to property that is to be placed in storage with the person rendering any service mentioned above, but such property shall be subject to the provisions of KRS 376.310.

SB 119, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.075 is amended to read as follows:

(1) Any licensed engineer***, licensed architect, licensed landscape architect,*** and [~~any~~] land surveyor who performs professional services or services as defined in KRS 322.010(3)for engineers***, KRS 323.010(3) for architects, KRS 323A.010(3) for landscape architects,*** and KRS 322.010(5)for land surveyors shall have a lien on the building, structure, land, or project on which ***the*** [~~such~~] services were performed, to secure the amount ***of the charges for services*** [~~thereof~~] with interest as provided in KRS 360.040 and costs.

(2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.

(3) No person [~~hereunder~~] who has not contracted directly with the owner or his agent shall acquire a lien under this section.

(4) Any lien provided for under this section shall be dissolved unless the claimant, within six (6) months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve (12) months from the day of filing the statement in the clerk's office as required by subsection (4) of this section. If the lienholder complies with all filing requirements under this section, and does so within the time [~~herein~~] fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.

(6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of an engineer***, architect, landscape architect,*** or land surveyor on a public improvement shall be governed by KRS 376.210.

Motions, Petitions and Communications (Continued)

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 155**:

HR 155, A RESOLUTION honoring Representative C. M. "Hank" Hancock on the occasion of his birthday.

WHEREAS, Representative Hank Hancock has ably served the people of his district since 1974; and

WHEREAS, Representative Hank Hancock is inseparable from the duties of his legislative district and the Kentucky River; and

WHEREAS, Representative Hank Hancock has been a prominent feature in House District 57 nearly as long as the Kentucky River itself; and

WHEREAS, Representative Hank Hancock's renowned singing has been heard in the valleys of the Kentucky River for longer than most of us in this chamber can remember; and

WHEREAS, today marks Representative Hank Hancock's fifty-sixth birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body wishes Representative C. M. "Hank" Hancock a very happy birthday.

Section 2. That the Clerk of the House give Representative Hank Hancock a copy of this Resolution.

HR 155 was adopted by voice vote.

Representative Farrow moved that a call of the roll be taken to show co-sponsors of **HR 155**.

On the roll call the vote was yeas 91—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bronger, Brown, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 1—Donnermeyer.

Representative Strong moved the adoption of the following Legislative Citation No. 40. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the fifth district Lincoln Club Hall of Fame 1992 inductees. The 1992 inductees have demonstrated outstanding support for the Republican Party in the 5th District. Members: Perry Martin Cross, Clinton County, Grace Holliday Strong, Perry County, Louise Combs, Pulaski County, Austin Redmon, Bell County, and Judge Jimmy Carter, Monroe County, have shown their commitment to the Republican Party through their dedication and hard work.

This prestigious body joins Representative William R. Strong in commending each new member to the Hall of Fame.

Representative Burch moved the adoption of the following **HR 157**:

HR 157, A RESOLUTION in loving memory and honor of Charles E. Schmidt, Jr.

With deepest respect, we pay homage and tribute to Charles E. Schmidt, Jr.

In life we shall find many men that are great, and some men that are good, but very few men that are both great and good.

WHEREAS, Charles E. Schmidt, Jr., a native of Chicago, Illinois was born November 7, 1937 and traversed these earthly bounds on January 29, 1992; and

WHEREAS, Charles E. Schmidt, Jr. graduated with honors from Florida State University in 1960 and graduated from Northwestern University Law School in 1964; and

WHEREAS, Charles E. Schmidt, Jr. practiced in Chicago, Illinois as tax attorney and stockbroker and was past chairman of the Illinois State Racing Commission, past president of the Association of Racing Commissioners International and ARC representative to the Conference of International Horse Authorities; and

WHEREAS, Charles E. Schmidt, Jr. was the operator of Sunrise Farm, a commercial thoroughbred breeding operation in Lexington, Kentucky; and

WHEREAS, Charles E. Schmidt, Jr. was a member of the University of Louisville faculty, teaching courses in business law and equine-related classes; and

WHEREAS, Charles E. Schmidt, Jr. was an underwriter of the Pope House, a project of the Blue Grass Trust for Historic Preservation in Lexington, Kentucky; and

WHEREAS, Charles E. Schmidt, Jr. must be recognized for his compassion toward his fellow man and his affable manner; and

WHEREAS, Charles E. Schmidt, Jr. was the adored husband of Virginia Hamilton Schmidt and loving father to five daughters, Debora Cornell, Cathy Ann Schmidt, Kimberly Weaver, Julie Schmidt and Virginia Lee Schmidt; two stepdaughters, Jennifer Lee Getz and Jessica Lee Getz, and proud grandfather to five grandchildren; and

WHEREAS, the passing of Charles E. Schmidt, Jr. has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its most profound sense of sorrow upon the passing of Charles E. Schmidt, Jr., and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Charles E. Schmidt, Jr.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Virginia Hamilton Schmidt, 4586 Newtown Pike, Lexington, Kentucky 40511.

HR 157 was adopted by voice vote.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HR 157**.

On the roll call the vote was yeas 57—Ackerson, Adkins, Allen, Altman, Arnold, Ballard, Bronger, Bryant, Burch, Callahan, L. Clark, Coleman, Collins, Crupper, Donnermeyer, Farrow, Gedling, Gee, Geveden, Hancock, J. Harper, K. Harper, Heleringer, Hourigan, Johnson, Jones, Keith, LeMaster, Little, Lyne, Mack, McElroy, Mullinix, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Richards, Richardson, Ridley, Sanders, B. Smith, R. Smith, Strong, Stumbo, Toby, Turner, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Collins moved the adoption of the following **HR 151**:

HR 151, A RESOLUTION honoring Bobby VanHoose, state high school wrestling champion of Johnson Central High School in Johnson County.

WHEREAS, Bobby VanHoose, a senior at Johnson Central High School made his school proud by winning the 103-pound weight division, state high school wrestling championship at Louisville's Atherton High School on February 22, 1992; and

WHEREAS, this victory did not come easily as Bobby VanHoose had an uphill battle in a tough bracket of the draw due to his regional runner-up entry position; and

WHEREAS, Bobby VanHoose prevailed over tough odds and secured the title in his senior year after a sparkling 47-2 win/loss record for the season;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate Bobby VanHoose for winning the state high school wrestling championship in his division.

Section 2. That the House commends the perseverance of Bobby VanHoose and the support and guidance provided him by his family, coach Jerry Butcher, principal Steven Butcher and superintendent Frank Hamilton.

Section 3. That the Clerk of the House of Representatives is directed to transmit three copies of this Resolution to coach Jerry Butcher, Johnson Central High School, Route 276, Box 202, Paintsville, Kentucky 41240.

HR 151 was adopted by voice vote.

Representative Collins moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION honoring Bruce Stepp and his teammates of Sheldon Clark High School in Martin County.

WHEREAS, it was a proud day for Sheldon Clark High School in Martin County when Bruce Stepp won the state high school 189-pound division wrestling championship in Louisville on February 22, 1992; and

WHEREAS, Bruce Stepp, a sophomore wrestler for the Sheldon Clark Cardinals finished the season with a 40-0 win/loss record after pinning his opponent in less than four minutes in the championship bout; and

WHEREAS, the Sheldon Clark High School wrestling team finished seventh in the state in team competition thanks to runner-up finishes in the 140-pound division by Archie Stepp, a freshman, and in the 145-pound division by Steve Jude, a sophomore; and

WHEREAS, this is only the fourth year of wrestling at Sheldon Clark and they are already favored to win the state team title next year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby recognize Bruce Stepp and his teammates from Sheldon Clark High School for doing so well in the state high school wrestling championship.

Section 2. That the House wishes them well in their quest for the state title next year and commends coach Jim Matney, principal A. J. Haney, superintendent Orville Blankenship, and the parents of the team for their guidance and support.

Section 3. That the Clerk of the House of Representatives is directed to transmit six copies of this Resolution to coach Jim Matney, Sheldon Clark High School, HC 63, Box 810, Inez, Kentucky 41224.

HR 152 was adopted by voice vote.

Representative Stumbo moved that the three day posting requirement be waived on **HB 640**. Agreed.

Representative Stokes moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stokes moved that her vote be changed from “yea” to “nay” on **HB 203**. Agreed.

Representative Lewis moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lewis moved that he be recorded as voting “yea” on **HB 203**. Agreed.

Representative Riggs moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting “yea” on **HB 67**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting “yea” on **HCR 49**, **HCR 118**, **HB 375**, **HB 506**, **HB 171**, **HB 67**, **HB 420**, **HB 535**, **HB 561**, **HB 563** and **HB 575**. Agreed.

Representative Heleringer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Heleringer moved that he be recorded as voting “yea” on **HB 479**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting “yea” on **HB 203**. Agreed.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting “yea” on **HB 203**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 2 to **HB 565**. Agreed.

Representative McElroy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McElroy moved that his vote be changed from "nay" to "yea" on **HB 161**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills: **HB 115**, Representative Ackerson; **HB 203**, **HB 565**, Representative Worthington; **HB 238**, Representative Todd; **HB 379**, **HB 485**, Representative Gray; **HB 447**, Representative Freibert; **HB 725**, Representative Lile; **HB 804**, Representative Altman; **HB 752**, Representatives Ford, Altman, J. Harper, Noland, B. Smith, Zimmerman.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Education, 8:30 a.m., March 4, 1992.

Budget Review Subcommittee on General Government, Room 113, 7:00 p.m., March 3, 1992.

Budget Review Subcommittee on Transportation, Room 113, March 3, 1992, upon adjournment.

Judiciary, 5:00 p.m., March 3, 1992.

Counties and Special Districts, 8:30 a.m., March 4, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 4, 1992.

On the roll call the vote was yeas 81—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Johnson, Jones, Kerr, Lear, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 6—Bronger, Heleringer, Keith, LeMaster, Lile, Nunn.

The motion to adjourn was adopted.